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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND CIVIL PENALTIES

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VIA CERTIFIED MAIL RETURN RECEIPT REQUESTED

May 22, 2017

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U.S. Department of Justice
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Thomas Howard, Executive Director
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Citizen Suit Coordinator
Environmental & Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

RE: California Communities Against Toxics v. Mattco Forge,
Inc. [Case No. 2:17-cv-3793 BRO (ASx)]

Dear Madams and Sirs:

Pursuant to 40 CFR Section 135.4, please see enclosed a copy of the filed Complaint in the referenced matter filed May 19, 2017. The Notice of Judicial Assignment was made today.

Should you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse C. Swanhuysen', with a long horizontal line extending to the right.

Jesse C. Swanhuysen

Encl.

Copy of filed CCAT v Mattco Complaint w/ Exhibit A (Notice Letter)

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7
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CALIFORNIA COMMUNITIES
AGAINST TOXICS, a non-profit
corporation,

Plaintiff,

vs.

MATTCO FORGE, INC., a
corporation, DOES 1 through 10,

Defendants.

Case No. _____

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND
CIVIL PENALTIES

(Federal Water Pollution Control Act, 33
U.S.C. §§ 1251 to 1387)

CALIFORNIA COMMUNITIES AGAINST TOXICS (“CCAT” or “Plaintiff”),
a California non-profit corporation, by and through its counsel, hereby alleges:

I. INTRODUCTION

1. This complaint seeks relief for ongoing and continuous violations by
Mattco Forge, Inc. (“Defendant” or “MATTCO”) of the Federal Water Pollution
Control Act, 33 U.S.C. § 1251, *et seq.* (the “Clean Water Act” or “Act”) and the

1 National Pollutant Discharge Elimination System (“NPDES”) Permit No. CA
2 S000001, State Water Resources Control Board Water Quality Order No. 91-13-
3 DWQ, as amended by Water Quality Order No. 92-12-DWQ, Water Quality Order
4 No. 97-03-DWQ and Order No. 2014-0057-DWQ (“Permit” or “General Permit”),
5 resulting from those industrial facilities owned and operated by MATTCO at and/or
6 near 16443 Minnesota Avenue and 7530 Jackson Street in Paramount, California
7 (collectively the “Facilities”).
8

9
10 2. Millions of gallons of polluted storm water originating from industrial
11 operations like those conducted at the Facilities pour into storm drains and local
12 waterways during every significant rainfall event. The consensus among agencies and
13 water quality specialists is that this pollution accounts for more than half of the total
14 pollution entering surface waters each year.
15
16

17 3. Industrial facilities, like the Defendant’s, that discharge storm water and
18 non-storm water contaminated with sediment, heavy metals, and other pollutants
19 contribute to the impairment of downstream waters and aquatic dependent wildlife,
20 expose people to such toxins, and harm the aesthetic and recreational significance Los
21 Angeles’ waterways have for residents of these communities and visitors alike.
22
23

24 **II. JURISDICTION AND VENUE**

25
26 4. This is a civil suit brought under the citizen suit enforcement provisions
27 of the Act. This Court has subject matter jurisdiction over the parties and the subject
28 matter of this action pursuant to Section 505(a)(1)(A) of the Act, 33 U.S.C. §

1 1365(a)(1)(A), and 28 U.S.C. § 1331 (an action arising under the laws of the United
2 States). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201–02 (power
3 to issue declaratory relief in case of actual controversy and further necessary relief
4 based on such a declaration); 33 U.S.C. §§ 1319(b), 1365(a) (injunctive relief); and 33
5 U.S.C. §§ 1319(d), 1365(a) (civil penalties).
6

7
8 5. On March 2, 2017 CCAT issued a sixty (60) day “Notice of Violation
9 and Intent to File Suit” letter (“Notice Letter”) to MATTCO, including its registered
10 agent for service of process, for its violations of both substantive and procedural
11 provisions of the Act and Permit. The Notice Letter informed the Defendants of
12 CCAT’s intent to file suit against it to enforce the Act and Permit.
13

14
15 6. The Notice Letter was also sent to the Attorney General of the United
16 States, the Administrator of the United States Environmental Protection Agency
17 (“EPA”); the Administrator of EPA Region IX; the Executive Director of the State
18 Water Resources Control Board (“State Board”); and the Executive Officer of the
19 California Regional Water Quality Control Board, Los Angeles Region (“Regional
20 Board”), as required by the Act, 33 U.S.C. § 1365(b)(1)(A). A true and correct copy
21 of the Notice Letter is attached as **EXHIBIT A**, and is incorporated by reference.
22

23
24 7. More than sixty (60) days have passed since the Notice Letter was served
25 on MATTCO and the federal and State agencies.
26

27 8. Plaintiff is informed and believes, and thereupon alleges, that neither the
28 EPA nor the State of California has commenced or is diligently prosecuting a court

1 action to redress the violations alleged in this complaint.

2 9. This action's claim for civil penalties is not barred by any prior
3 administrative penalty under Section 309(g) of the Act, 33 U.S.C. § 1319(g).
4

5 10. Venue is proper in the Central District of California pursuant to Section
6 505(c)(1) of the Act, 33 U.S.C. § 1365(c)(1), because the source of the violations is
7 located within this judicial district.
8

9 **III. PARTIES**

10 11. Plaintiff is a non-profit public benefit corporation organized under the
11 laws of the State of California with its main office in Rosamond, California.
12

13 12. CCAT is a coalition of more than 70 non-profit corporations and
14 community associations around the State of California. CCAT is dedicated to
15 working with communities to advocate for environmental justice and pollution
16 prevention for the benefit of California's human and natural communities.
17

18 13. CCAT has members living in and around Paramount, as well as
19 throughout the Los Angeles River Watershed. CCAT and its members are deeply
20 concerned with protecting public health and the environment in and around their
21 communities.
22

23 14. The unlawful discharge of pollutants from the Facilities into the Los
24 Angeles River and downstream waters impairs the ability of CCAT's members to use
25 and enjoy these waters. Thus, the interests of CCAT members have been, are being,
26 and will continue to be adversely affected by the Facilities' failure to comply with the
27
28

1 Clean Water Act and General Permit. The relief sought herein will redress the harms
2 to Plaintiff caused by Defendant(s)' activities.

3 15. Continuing commission of the acts and omissions alleged herein will
4 irreparably harm Plaintiff and its members, for which they have no plain, speedy or
5 adequate remedy at law.
6

7 16. Plaintiff alleges on information and belief that MATTCO is an active
8 California corporation.
9

10 17. MATTCO filed a Notice of Intent to Comply With the Terms of the
11 General Permit to Discharge Storm Water Associated with Industrial Activity ("NOI")
12 on June 25, 2015 ("2015 NOI").
13

14 18. Upon information and belief, Plaintiff alleges that the true names, or
15 capacities of DOES 1 through 10, inclusive (the "DOES"), whether individual,
16 corporate, associate or otherwise, are presently unknown to Plaintiff, who therefore
17 sue said Defendants by such fictitious names. Plaintiff will amend this Complaint to
18 show their true names and capacities when the same have been ascertained. Whether
19 or not MATTCO is associated with any other individual, corporate, associate or
20 otherwise was not immediately apparent through CCAT's initial investigation.
21
22

23 19. MATTCO and DOES 1 through 10 are referred to collectively
24 throughout this Complaint as Defendant or Defendants.
25
26

27 **IV. LEGAL BACKGROUND**

28 **A. The Clean Water Act.**

1 20. Section 301(a) of the Act, 33 U.S.C. § 1311(a), prohibits the discharge of
2 any pollutant into waters of the United States unless the discharge complies with
3 various enumerated sections of the statute. Among other things, section 301(a)
4 prohibits discharges not authorized by, or in violation of, the terms of NPDES permits
5 issued pursuant to section 402 of the Act, 33 U.S.C. §§ 1311(a) and 1342(b). The Act
6 requires all point source discharges of pollutants to waters of the United States be
7 regulated by an NPDES permit. 33 U.S.C. § 1311(a); *see* 40 C.F.R. § 122.26(c)(1).
8

9 21. “Waters of the United States” are defined as “navigable waters,” and “all
10 waters which are currently used, were used in the past, or may be susceptible to use in
11 interstate or foreign commerce, including waters which are subject to the ebb and flow
12 of the tide.” 33 U.S.C. § 1362(7); 40 C.F.R. § 122.2.
13
14

15 22. The EPA promulgated regulations defining “waters of the United States.”
16 *See* 40 C.F.R. § 122.2. The EPA interprets waters of the United States to include not
17 only traditionally navigable waters, but also other waters, including waters tributary to
18 navigable waters, wetlands adjacent to navigable waters, and intermittent streams that
19 could affect interstate commerce.
20
21

22 23. The Act confers jurisdiction over waters that are tributaries to
23 traditionally navigable waters where the water at issue has a significant nexus to the
24 navigable water. *See Rapanos v. United States*, 547 U.S. 715 (2006); *see also N. Cal.*
25 *River Watch v. City of Healdsburg*, 496 F.3d 993 (9th Cir. 2007).
26
27

28 24. A significant nexus is established if the water in question “either alone or

1 in combination with similarly situated lands in the region, significantly affect the
2 chemical, physical, and biological integrity of other covered waters.” *Rapanos*, 547
3 U.S. at 780; *N. Cal. River Watch*, 496 F.3d at 999-1000.

4
5 25. Section 505(a)(1) of the Act provides for citizen enforcement actions
6 against any “person” who is alleged to be in violation of an “effluent standard or
7 limitation...or an order issued by the Administrator or a State with respect to such a
8 standard or limitation.” *See* 33 U.S.C. §§ 1365(a)(1) and 1365(f).

9
10 26. Defendant MATTCO is a “person” within the meaning of section 502(5)
11 of the Act. *See* 33 U.S.C. § 1362(5).

12
13 27. An action for injunctive relief is authorized under section 505(a) of the
14 Act. *See* 33 U.S.C. § 1365(a)(1).

15
16 28. Each separate violation of the Act subjects the violator to a penalty of up
17 to \$51,570 per day for violations occurring after November 2, 2015; and up to
18 \$37,500 per day per violation for violations occurring prior to and including
19 November 2, 2015. *See* 33 U.S.C. §§ 1319(d) and 1365(a); 40 C.F.R. § 19.4
20 (Adjustment of Civil Monetary Penalties for Inflation).

21
22 29. Section 505(d) of the Act allows prevailing or substantially prevailing
23 parties to recover litigation costs, including fees for attorneys, experts, and
24 consultants. *See* 33 U.S.C. § 1365(d).

25
26
27 **B. California’s Storm Water Permit.**

28 30. The State Board is charged with regulating pollutants to protect

1 California's water resources. *See* Cal. Water Code § 13001.

2 31. Section 402(p) of the Act establishes a framework for regulating
3 industrial storm water discharge under the NPDES permit program. 33 U.S.C. §
4 1342(p).

6 32. Section 402(b) of the Act allows each state to administer an EPA-
7 approved NPDES permit program for regulating the discharge of pollutants, including
8 discharges of polluted storm water. *See* 33 U.S.C. § 1342(b).

10 33. States with approved NPDES permit programs are authorized by Section
11 402(b) to regulate industrial storm water discharges through the issuance of a
12 statewide general NPDES permit applicable to all industrial dischargers and/or
13 through individual NPDES permits issued to dischargers. *See* 33 U.S.C. § 1342(b).

16 34. California is a state authorized by EPA to issue NPDES permits. The
17 Permit is a statewide general NPDES permit issued by the State Board pursuant to the
18 Act.

20 35. Between 1997 and June 30, 2015, the Permit in effect in California was
21 Order No. 97-03-DWQ, which CCAT refers to herein as the "1997 Permit."

23 36. On July 1, 2015, California re-issued the Permit pursuant to Order No.
24 2014-0057-DWQ's NPDES, which is referred to herein as the "2015 Permit."

26 37. The 2015 Permit superseded the 1997 Permit, except for enforcement
27 purposes, and its terms are as stringent, or more so, than the terms of the 1997 Permit.
28 *See* 2015 Permit, Findings, ¶ 6.

1 38. Prior to beginning industrial operations, dischargers are required to apply
2 for coverage under the Permit by submitting a NOI to the State Board. 1997 Permit,
3 Finding #3; 2015 Permit, Findings, ¶ 17.

4
5 39. In order to discharge storm water lawfully in California, industrial
6 dischargers must secure coverage under the Permit and comply with its terms, or
7 obtain and comply with an individual NPDES permit. 1997 Permit, Finding #2; 2015
8 Permit, Findings, ¶ 12.

9
10 40. Compliance with the Permit constitutes compliance with the Act for
11 purposes of storm water discharges. 33. U.S.C. §§ 1311(b)(2)(A), 1311(b)(2)(E).
12 Conversely, violations of the Permit are violations of the Act. 1997 Permit, Section
13 C(1); 2015 Permit, Section XXI(A).
14
15

16 **C. The Permit's Discharge Prohibitions, Effluent Limitations, and**
17 **Receiving Water Limitations.**

18 41. The Permit contains a Discharge Prohibition on the direct or indirect
19 discharge of materials other than storm water ("non-storm water discharges") that is
20 not otherwise authorized by an NPDES permit to waters of the United States. 1997
21 Permit, Section A(1); 2015 Permit, Section III(B).
22

23 42. The Permit contains an Effluent Limitation that requires permittee
24 facilities to reduce or prevent pollutants in storm water discharges through the
25 implementation of Best Available Technology Economically Achievable ("BAT") for
26 toxic or non-conventional pollutants, and Best Conventional Pollutant Control
27
28

1 Technology (“BCT”) for conventional pollutants. 40 C.F.R. §§ 401.15-16; 1997
2 Permit, Section B(3); 2015 Permit, Section V(A). BAT and BCT include both
3 structural (e.g. installation of curbs to direct storm water flows) and non-structural
4 (e.g. sweeping) measures.
5

6 43. In order to comply with the statutory BAT/BCT mandate, covered
7 facilities must implement site-specific structural and non-structural Best Management
8 Practices (“BMPs”) designed to prevent or reduce discharges with pollutant
9 concentrations that violate the Permit, and therefore the Act.
10

11 44. EPA’s NPDES Storm Water Multi-Sector General Permit for Industrial
12 Activities (“MSGP”) include numeric benchmarks for pollutant concentrations in
13 storm water discharges (“EPA Benchmarks”) that are numeric thresholds to aid in
14 determining whether a facility discharging industrial storm water had implemented the
15 requisite BAT and/or BCT as mandated by the Act. *See* United States Environmental
16 Protection Agency NPDES Multi-Sector General Permit for Storm Water Discharges
17 Associated with Industrial Activity, as modified effective May 9, 2009.
18

19 45. EPA’s Benchmarks serve as objective measures for evaluating whether
20 the BMPs designed and implemented at a facility achieve the statutory BAT/BCT
21 standards. *See* MSGP, 80 Fed. Reg. 34,403, 34,405 (June 16, 2015); *see also* MSGP,
22 73 Fed. Reg. 56,572, 56,574 (Sept. 29, 2008); *see also* MSGP, 65 Fed. Reg. 64,746,
23 64,766-67 (Oct. 30, 2000).
24
25
26
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28

46. The State Board established Numeric Action Levels (“NALs”) in the

1 2015 Permit. *See* 2015 Permit, Section V(A). NALs are derived from, and function
2 similar to, EPA benchmarks. *See* 2015 Permit Fact Sheet, Section I(D)(5). NALs and
3 Benchmarks represent pollutant concentrations at which a storm water discharge
4 could impair, or contribute to impairing, water quality and/or affect human health.
5

6 47. The Permit also contains various Receiving Water Limitations. 1997
7 Permit, Receiving Water Limitation C(1)-(2); 2015 Permit, Section VI(A). Receiving
8 Waters are those surface or other waters to which pollutants are discharged from a
9 given facility.
10

11 48. The first Receiving Water Limitation is that stormwater discharges shall
12 not cause or contribute to an exceedance of any applicable water quality standard
13 (“WQS”). *Id.*
14

15 49. WQS are pollutant concentration levels determined by the State Board,
16 the various regional boards and/or the EPA to be protective of the beneficial uses of
17 the water that receive polluted discharges. WQS applicable to the discharges covered
18 by the Permit include, but are not limited to, those set out in the *Water Quality*
19 *Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los*
20 *Angeles and Ventura Counties*¹, California Regional Water Quality Control Board,
21 Los Angeles Region 4 (adopted June 13, 1994, as amended) (“Basin Plan”) and in the
22 Criteria for Priority Toxic Pollutants for the State of California (a.k.a. California
23
24
25
26
27
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¹ Available at http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/.

1 Toxics Rule or “CTR”). 65 Fed. Reg. 31712 (May 18, 2000); 40 C.F.R. § 131.38.

2 50. The second Receiving Water Limitation is that storm water discharges
3 shall not adversely impact human health or the environment. 1997 Permit, Receiving
4 Water Limitation C(1); 2015 Permit, Section VI(B).

6 51. The third Receiving Water Limitation is that concentrations of pollutants
7 in storm water discharges shall not threaten to cause pollution or a public nuisance.
8 See 2015 Permit, Section VI(C).

10 52. A facility is in violation of the Permit’s Receiving Water Limitation
11 when its storm water discharges contain pollutant levels that: i) exceed an applicable
12 WQS; ii) exceed levels known to adversely impact aquatic species and the
13 environment; or iii) threaten to cause pollution.
14

16 53. The Facilities’ stormwater discharges drain first to Reach 2 of the Los
17 Angeles River (“River”), through Reach 1 of the River, the Los Angeles River
18 Estuary and the San Pedro Bay, and ultimately to the Pacific Ocean via (collectively
19 “Receiving Waters”).
20

21 54. The Regional Board identifies beneficial uses of the Receiving Waters
22 and establishes water quality standards in the Basin Plan. The beneficial uses of the
23 Receiving Waters include municipal and domestic water supply, groundwater
24 recharge, water contact recreation,² non-contact water recreation,³ warm freshwater
25
26

27
28 ² Contact recreation use includes fishing and wading. Basin Plan at 2-2.

³ Non-contact water recreation use is defined as “[u]ses of water for recreational activities involving proximity to water,
COMPLAINT

1 habitat, wildlife habitat, wetland habitat, marine habitat, rare, threatened, or
2 endangered species, preservation of biological habitats, migration of aquatic
3 organisms, spawning, reproduction and/or early development, and shellfish
4 harvesting.
5

6 55. The Basin Plan includes a narrative toxicity standard which states that
7
8 “[a]ll waters shall be maintained free of toxic substances in concentrations that are
9 toxic to, or that produce detrimental physiological responses in, human, plant, animal,
10 or aquatic life.” Basin Plan at 3-38.
11

12 56. The Basin Plan includes a narrative oil and grease standard which states
13 that “[w]aters shall not contain oils, greases, waxes, or other materials in
14 concentrations that result in a visible film or coating on the surface of the water or on
15 objects in the water, that cause nuisance, or that otherwise adversely affect beneficial
16 uses.” Basin Plan at 3-29.
17

18 57. The Basin Plan provides that “[w]aters shall not contain suspended or
19 settleable material in concentrations that cause nuisance or adversely affect beneficial
20 uses.” Basin Plan at 3-37.
21

22 58. The Basin Plan provides that “[s]urface waters shall not contain
23 concentrations of chemical constituents in amounts that adversely affect any
24 designated beneficial use.” Basin Plan at 3-24.
25
26

27
28 but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities.” Basin Plan at 2-2.

1 59. The Basin Plan provides that “[w]aters shall not contain floating
2 materials, including solids, liquids, foams, and scum, in concentrations that cause
3 nuisance or adversely affect beneficial uses.” Basin Plan at 3-26.

4
5 60. The Basin Plan provides that “[w]aters shall be free of coloration that
6 causes nuisance or adversely affects beneficial uses.” Basin Plan at 3-25.

7
8 61. The Basin Plan provides that “[w]aters shall be free of changes in
9 turbidity that cause nuisance or adversely affect beneficial uses.” Basin Plan at 3-38.

10 62. The Basin Plan provides that “[w]aters shall not contain taste or odor-
11 producing substances in concentrations that impart undesirable tastes or odors to fish
12 flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial
13 uses.” Basin Plan at 3-37.

14
15
16 63. The U.S. EPA has adopted freshwater numeric water quality standards in
17 the CTR for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”), for
18 copper of 0.013 mg/L (CMC), cadmium of 0.0043 mg/L (CMC), and for lead of
19 0.0025 mg/L (Criteria Continuous Concentration – “CCC”).⁴

20
21 64. According to the 2012 303(d) List of Impaired Water Bodies,⁵ Reaches 1
22 and 2 of the Los Angeles River are impaired by various pollutants, including pH,
23 cyanide, diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper,
24 trash, zinc, and oil. The Los Angeles River Estuary is impaired by, among other
25

26
27
28 ⁴ These values are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

⁵ Available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml

1 pollutants, chlordane, sediment toxicity, and trash.⁶ The Los Angeles/Long Beach
2 Harbor is impaired by at least chrysene, copper, sediment toxicity, mercury, and zinc.⁷
3 The San Pedro Bay is impaired by sediment toxicity, and the Long Beach City Beach,
4 one of the San Pedro Bay beaches, is impaired by indicator bacteria.⁸

6 65. The Receiving Waters are ecologically significant. Although pollution
7 and habitat destruction have drastically altered the natural ecosystem, the Receiving
8 Waters are still essential habitat for dozens of fish and bird species, as well as macro-
9 invertebrate and invertebrate species. Storm water and non-storm water contaminated
10 with sediment, heavy metals, and other pollutants harm the special aesthetic and
11 recreational significance the Receiving Waters have for people in surrounding
12 communities, including CCAT's members. The public's use of the Receiving Waters
13 for water contact sports and fishing exposes many people to toxic metals, pathogens,
14 bacteria and other contaminants in storm water and non-storm water discharges. Non-
15 contact recreational and aesthetic opportunities, such as wildlife observation, are also
16 impaired by polluted discharges to the Receiving Waters.

21 66. Discharges of pollutants at levels above WQS contribute to the
22 impairment of the beneficial uses of the waters receiving the discharges and constitute
23 violations of the Permit and Act.

26 67. Discharges with pollutant levels in excess of the CTR criteria, the Basin

27 ⁶ *Id.*

28 ⁷ *Id.*

⁸ *Id.*

Plan standards, and/or other applicable WQS are violations of the Permit's Receiving Water Limitations. WQS applicable to the Facilities include, but may not be limited to, those detailed in TABLE 1. MATTCO must analyze all stormwater samples for these parameters.

TABLE 1
WATER QUALITY STANDARDS APPLICABLE TO MATTCO'S FACILITIES

Parameter	Source	Numeric Limit
pH	Basin Plan	6.5-8.5 s.u.
Al	Basin Plan	1.0 mg/L
Cu	CTR	0.013 mg/L (Criteria Max. Concentration ⁹)
Zn	CTR	0.120 mg/L (Criteria Max. Concentration)
Pb	CTR	0.065 mg/L (Criteria Max. Concentration)
Ni	CTR	0.470 mg/L (Criteria Max. Concentration)
Cd	CTR	0.0043 mg/L (Criteria Max. Concentration)
Cr (VI)	CTR	0.016 mg/L (Criteria Max. Concentration)

68. Benchmarks and/or NALs established for conventional and industry specific pollutants discharged from the Facilities, and for which MATTCO must analyze stormwater samples, are summarized below at TABLE 2.

⁹ Criteria Maximum Concentration ("CMC") equals the highest concentration of a pollutant to which aquatic life can be exposed for a short period of time without deleterious effects.

TABLE 2
BENCHMARK AND NAL VALUES APPLICABLE TO MATTCO'S FACILITIES

PARAMETER/ POLLUTANT	EPA BENCHMARK	ANNUAL NAL	INSTANTANEOUS MAXIMUM NAL
pH	6.0-9.0 s.u.	n/a	6.0-9.0 s.u.
TSS	100 mg/L	100 mg/L	400 mg/L
O&G	15 mg/L	15 mg/L	25 mg/L
SC	200 uhmos/cm	200 uhmos/cm	n/a
TOC	110 mg/L	110 mg/L	n/a
COD	120 mg/L	120 mg/L	n/a
Al	0.75 mg/L	0.75 mg/L	n/a
N+N	0.68 mg/L	0.68 mg/L	n/a
Fe	1.0 mg/L	1.0 mg/L	n/a
Zn	0.117 mg/L	0.26 mg/L	n/a
Ni	1.02 mg/L	1.02 mg/L	n/a
Mg	0.064 mg/L	0.064 mg/L	n/a
Cu	0.0332 mg/L	0.0332 mg/L	n/a
Pb	0.0816 mg/L	n/a	n/a

D. The Permit's Planning and BMP Design Requirements.

69. Dischargers must develop and implement a Storm Water Pollution Prevention Plan ("SWPPP") at the time industrial activities begin. 1997 Permit, Sections A(1)(a) and E(2); 2015 Permit, Sections I(I) (Finding 54) and X(B).

70. The SWPPP must identify and evaluate sources of pollution associated with industrial activities that may affect the quality of stormwater, and authorized non-stormwater discharges from the facility. 1997 Permit, Section A(2); 2015 Permit,

1 Section X(G).

2 71. The SWPPP must identify and describe site-specific BMPs to reduce or
3 prevent pollutants associated with industrial activity in storm water and authorized
4 non-stormwater discharges. 1997 Permit, Section A(2); 2015 Permit, Section X(H).
5

6 72. The SWPPP must also include BMPs that achieve pollutant discharge
7 reductions attainable via BAT and BCT. 1997 Permit, Order Section A(2); 2015
8 Permit, Section I(D) (Finding 32), Section X(C).
9

10 73. The SWPPP must include: i) a narrative description and summary of all
11 industrial activity, potential sources of pollution, and potential pollutants; ii) a site
12 map indicating the storm water conveyance system, associated points of discharge,
13 direction of flow, areas of actual and potential pollutant contact, including the extent
14 of pollution-generating activities, nearby water bodies, and pollutant control
15 measures; iii) a description of storm water management practices; iv) a description of
16 the BMPs to be implemented to reduce or prevent pollutants in storm water discharges
17 and authorized non-storm water discharges; v) the identification and elimination of
18 non-storm water discharges; vi) identify and locate where materials are being shipped,
19 received, stored, handled, as well as typical quantities of such materials and the
20 frequency with which they are handled; vii) a description of dust and particulate
21 generating activities; and viii) a description of individuals and their current
22 responsibility for developing and implementing the SWPPP. 1997 Permit, Section
23 A(1)-(10); 2015 Permit, Section X.
24
25
26
27
28

1 74. The 2015 Permit further requires certain SWPPP enhancements,
2 including a more comprehensive assessment of potential pollutant sources and more
3 specific BMP descriptions. *See* 2015 Permit Sections X(G)(2), (4), (5).
4

5 75. The objectives of the SWPPP are to: i) identify and evaluate sources of
6 pollutants associated with industrial activities that may affect the quality of storm
7 water discharges; ii) to identify, design and implement site-specific BMPs to prevent
8 the exposure of pollutants to storm water; and iii) to reduce or prevent the discharge
9 of polluted storm water from industrial facilities. 1997 Permit, Section A(2); 2015
10 Permit, Section X.
11

12 76. To ensure compliance, the SWPPP must be evaluated and revised as
13 necessary. *See* 1997 Permit Sections A(9)-(10); *see also* 2015 Permit § X(B).
14

15 77. Failure to develop or implement an adequate SWPPP (or revise an
16 existing SWPPP, as necessary) constitutes an independent Permit violation. *See* 2015
17 Permit, Fact Sheet, Section I(1).
18

19 78. The Permit also requires that the discharger conduct an annual
20 comprehensive site compliance evaluation that includes a review of all visual
21 observation records, inspection reports and sampling analysis data, a visual inspection
22 of all potential pollutant sources for evidence of, or the potential for, pollutants
23 entering the drainage system, a review and evaluation of all BMPs to determine
24 whether the BMPs are adequate, properly implemented and/or maintained, or whether
25 additional BMPs are needed, and a visual inspection of equipment needed to
26
27
28

1 implement the SWPPP. 1997 Permit, Sections A(9)(a)-(c); 2015 Permit, Section XV.

2 79. Section A(9)(d) of the 1997 Permit requires that the discharger submit an
 3 evaluation report that includes an identification or personnel performing the
 4 evaluation, date(s) of the evaluation(s) necessary SWPPP revisions, a schedule for
 5 implementing SWPPP revisions, any incidents of non-compliance and the corrective
 6 actions taken, and a certification that the discharger is in compliance with the Permit.
 7 1997 Permit; Section A(9)(d)(i)-(vi). If certification cannot be provided, the
 8 discharger must explain in the evaluation report why the facility is not in compliance.
 9 1997 Permit, Section A(9)(d). The evaluation report shall be submitted as part of the
 10 Annual Report specified in Section B(14) of the Permit. 1997 Permit, Section
 11 A(9)(d).
 12
 13
 14
 15

16 **E. The Permit's Monitoring and Reporting Requirements.**

17 80. The 1997 Permit required facility operators to develop and implement a
 18 monitoring and reporting program ("M&RP") when industrial activities begin at the
 19 facility. 1997 Permit, Sections B(1)-(2) and E(3). The 2015 Permit also requires
 20 implementation of a M&RP. 2015 Permit, Sections X(I) and XI.
 21
 22

23 81. The objectives of the M&RP are to inform discharges about the
 24 effectiveness of BMPs designed in the planning phase and implemented on the
 25 ground. Where the M&RP indicates that BMPs are not adequate to prevent or reduce
 26 pollutants in storm water discharges, permittees have an obligation to re-design BMPs
 27 and/or improve BMP implementation as necessary to ensure that storm water
 28

1 discharges are in compliance with the Permit's Discharge Prohibitions, Effluent
2 Limitations and Receiving Water Limitations. *See* 1997 Permit, Section B(2); *see*
3 *also* 2015 Permit, Sections X(I) and XI.
4

5 82. The 2015 Permit requires facility operators to visually observe, monitor
6 and sample storm water discharges to ensure that the facility is complying with its
7 obligations under the Permit. 2015 Permit, Sections I(J) (Findings 55-56) and XI.
8

9 83. The M&RP must be revised as necessary to ensure Permit compliance.
10 1997 Permit, Section B(2)(d); 2015 Permit, Section XI(A)(4).
11

12 84. Dischargers must conduct monthly visual observations of storm water
13 discharges as part of a legally adequate M&RP. 1997 Permit, Section B(4)(a); 2015
14 Permit, Section XI(A).
15

16 85. Dischargers must observe and document the presence of any floating and
17 suspended materials, oil and grease, discolorations, turbidity, or odor in a discharge,
18 and the source of any pollutants in storm water discharges from the facility.
19

20 86. Dischargers are required to maintain detailed records of each
21 observation, and corrective action taken to reduce or prevent pollutants from
22 contacting storm water discharges. *See* 1997 Permit, Section B(4)(c); *see also* 2015
23 Permit, Section XI(A)(3).
24

25 87. The Permit requires dischargers to revise the SWPPP as necessary to
26 ensure that BMPs are effectively reducing and/or eliminating pollutants from entering
27 surface waters from the facility. 1997 Permit, Section B(4)(c), 2015 Permit, Section
28

1 XI(B)(1).

2 88. The Permit requires dischargers to visually observe and collect samples
3 of storm water discharges from each location where storm water is discharged. 1997
4 Permit, Sections B(5) and B(7); 2015 Permit, Section XI(B)(4).

6 89. Section B(5)(a) of the 1997 Permit required dischargers to collect storm
7 water samples during the first hour of discharge from the first storm event of the Wet
8 Season and at least one other storm event in the Wet Season. All storm water
9 discharge locations must be sampled. Facility operators that do not collect samples
10 from the first storm event of the Wet Season are still required to collect samples from
11 two other storm events of the Wet Season and must explain in the Annual Report why
12 the first storm event was not sampled.
13

14 90. Section B(5)(b) required that sampling conducted pursuant to the 1997
15 Permit occur during scheduled facility operating hours that are preceded by at least
16 three (3) working days without storm water discharge.
17

18 91. Section XI(B)(1) of the 2015 Permit requires sampling from a Qualifying
19 Storm Event ("QSE"), which is a precipitation event that produces a discharge for at
20 least one drainage area and is preceded by forty-eight (48) hours with no discharge
21 from any drainage area.
22

23 92. Dischargers are required to collect samples of storm water within 4 hours
24 of the start of facility operations if the QSE began within the previous 12-hour period,
25 e.g. for storms with discharges that begin during the night for facilities with day-time
26 COMPLAINT

1 operations. 2015 Permit, Section XI(B)(5)(b).

2 93. Section XI(B)(2) of the 2015 Permit requires dischargers to collect and
3 analyze storm water samples from two (2) QSEs within the first half of each reporting
4 year (July 1 to December 31), and two (2) QSEs within the second half of each
5 reporting year (January 1 to June 30).
6

7 94. Section XI(B)(11) of the 2015 Permit, among other requirements,
8 provides that permittees must submit all sampling and analytical results for all
9 samples via SMARTS within thirty (30) days of obtaining all results for each
10 sampling event.
11

12 95. The Permit requires dischargers to analyze each sample for pH, specific
13 conductance ("SC"), TSS, and either total organic carbon ("TOC") or Oil & Grease
14 ("O&G"). 1997 Permit, Section B(5)(c)(i); 2015 Permit, Sections XI(B)(6)(a)-(b).
15

16 96. The Permit also requires dischargers to analyze each sample for site-
17 specific toxic chemicals and other pollutants associated with the specific industrial
18 operations at the facility. 1997 Permit, Section B(5)(c)(ii); 2015 Permit, Section
19 XI(B)(6)(c).
20

21 97. Section XI(B)(6) of the 2015 Permit requires dischargers to analyze
22 storm water samples for additional industrial parameters related to receiving waters
23 with 303(d) listed impairments, or approved Total Maximum Daily Loads.
24

25 98. According to information and belief, CCAT alleges that the parameters
26 applicable to MATTCO pursuant to the requirements summarized in paragraphs 96
27
28

1 and 97 are detailed above in TABLE 1 and TABLE 2.

2 99. Section B(14) of the 1997 Permit required that dischargers submit an
3 Annual Report to the applicable Regional Board by July 1 of each year. The Annual
4 Report must include a summary of visual observations and sampling results, an
5 evaluation of the visual observations and sampling and analysis results, laboratory
6 reports, the annual comprehensive site compliance evaluation report specified in
7 Section A(9), an explanation of why a facility did not implement any activities
8 required, and the records specified in Section B(13)(i).

9 100. Section XVI of the 2015 Permit requires dischargers to submit a
10 Compliance Checklist with each Annual Report that indicates whether the discharger
11 complies with, and has addressed all applicable requirements of the 2015 Permit, an
12 explanation for any noncompliance of requirements within the reporting year, as
13 indicated in the Compliance Checklist, an identification, including page numbers
14 and/or sections, of all revisions made to the SWPPP within the reporting year, and the
15 date(s) of the Annual Evaluation.

16 **V. STATEMENT OF FACTS**

17 **A. The Facilities.**

18 101. The NOI for MATTCO on file with the Regional Board lists the
19 Facilities' Waste Discharger Identification No. as 4 19I025496 for the Minnesota
20 Avenue facility. The NOI contains no reference to and contains no information about
21 MATTCO's industrial activity on Jackson Street. Similarly, the SWPPP dated May

1 22, 2015 on file with the Regional Board makes no reference to and contains no
2 information about industrial activity on Jackson Street.

3 102. The NOI certifies that the Facilities cover 4 acres.

4
5 103. According to information available to CCAT, the Facilities are metal
6 forging operations. Activities include the development, design, manufacture and
7 testing of engineered forged metal products for aerospace, defense, oil & gas,
8 transportation and power generation industries.

9
10 104. The MATTCO website indicates the use of the following forging
11 materials at the Facilities: nickel (Ni), cobalt (Co), titanium (Ti), aluminum (Al),
12 magnesium (Mg), steel, stainless steel, carbon and various “super” alloys.

13
14 105. The Facilities’ SWPPP contains no specific reference to any of these
15 materials.

16
17 106. U.S. EPA’s Industrial Storm Water Fact Sheet for AA: Fabricated Metal
18 Products Manufacturing Facilities¹⁰ indicates that polluted discharges from industrial
19 activities like those conducted at the Facilities commonly contain substances affecting
20 pH; metals, such as iron, aluminum, and nickel; toxic metals, such as lead, zinc,
21 cadmium, chromium, and copper; organics; chemical oxygen demand (“COD”);
22 biological oxygen demand (“BOD”); total suspended solids (“TSS”)¹¹; fuel additives,

23
24
25
26
27 ¹⁰ Available at https://www3.epa.gov/npdes/pubs/sector_aa_fabmetal.pdf

28 ¹¹ High concentrations of TSS degrade optical water quality by reducing water clarity and decreasing light available to support photosynthesis. TSS has been shown to alter predator prey relationships (for example, turbid water may make it difficult for fish to hunt prey). Deposited solids alter fish habitat, aquatic plants, and benthic organisms. TSS can also be harmful to aquatic life because numerous pollutants, including metals and polycyclic aromatic hydrocarbons, are

1 gas/diesel fuel, oil and grease (“O&G”); coolants and solvents; acid/alkaline waste;
 2 and, trash and debris. EPA’s Industrial Storm Water Fact Sheet for Sector AB:
 3 Transportation Equipment, Industrial, or Commercial Machinery Manufacturing
 4 Facilities¹² indicates that polluted discharges from industrial activities like those
 5 conducted at the Facilities commonly contain TSS; O&G; organics; solvents;
 6 acid/alkaline wastes; heavy metals; toxic metals such as lead, arsenic, cadmium, and
 7 chromium; COD; gasoline and diesel. Many of these pollutants are on the list of
 8 chemicals published by the State of California as known to cause cancer, birth defects,
 9 and developmental or reproductive harm. Discharges of polluted storm water to the
 10 local surface waters pose carcinogenic and reproductive toxicity threats to the public
 11 and adversely affect the aquatic environment.

16 **B. The Facilities’ Discharges and Receiving Waters.**

17 107. The Facilities are located approximately 1.3 miles east of the Los
 18 Angeles River.

20 108. The SWPPP describes two discharge points at the Minnesota Avenue
 21 facility—identified and sampled as Outfall #1 and Outfall #2—both of which are
 22 located within the Facilities’ borders.

24 109. According to the SWPPP, the majority of stormwater discharged by

27 absorbed onto TSS. Thus, higher concentrations of TSS results in higher concentrations of toxins associated with those
 28 sediments. Inorganic sediments, including settleable matter and suspended solids, have been shown to negatively impact
 species richness, diversity, and total biomass of filter feeding aquatic organisms on bottom surfaces.

¹² Available at https://www.epa.gov/sites/production/files/2015-10/documents/sector_ab_transport.pdf.

1 MATTCO enters local storm drains operated by the County of Los Angeles via inlets
2 located within the Facilities' borders, and then travel below grade to the Los Angeles
3 River and other Receiving Waters (described in paragraph 53 above).
4

5 110. The SWPPP (at page 10) also indicates that some stormwater,
6 specifically stormwater potentially contaminated by contact with Hazardous Material
7 and Hazardous Waste Storage, is discharged in "sheet flow" onto Minnesota Avenue.
8

9 111. The SWPPP contains no description of discharge or discharge points at
10 the Jackson Street address.
11

12 112. CCAT is informed and believes, and thereon alleges, that each of the
13 Receiving Waters is a water of the United States.
14

15 113. CCAT is informed, believes, and thereon alleges that the Facilities'
16 polluted discharges cause, threaten to cause, and/or contribute to the impairment of
17 water quality in the Receiving Waters.
18

19 114. On information and belief, CCAT alleges that storm water and non-storm
20 water contaminated with sediment, heavy metals, and other pollutants harm the
21 special aesthetic and recreational significance the Receiving Waters have for people in
22 surrounding communities, including CCAT members.
23

24 115. The public's use of the Receiving Waters for water contact sports and
25 fishing exposes many people to toxic metals, pathogens, bacteria and other
26 contaminants in storm water and non-storm water discharges. Non-contact
27 recreational and aesthetic opportunities, such as wildlife observation, are also
28

1 impaired by polluted discharges to the Receiving Waters.

2 **VI. VIOLATIONS OF THE CLEAN WATER ACT AND PERMIT**

3 116. During the period before (Jan. 1992-May 2015) and since (May 2015-
4 present) enrolling in the Permit, MATTCO has failed to carry out its obligations under
5 Permit and Act.
6

7 117. The Facilities are in ongoing violation of the Permit, and violations span
8 both the 1997 Permit and 2015 Permit.
9

10 118. MATTCO has failed to conduct requisite monitoring/sampling of
11 stormwater discharges; failed to develop a legally adequate M&RP; failed to develop,
12 implement and/or update a legally adequate SWPPP to ensure the development and
13 implementation of BMPs that achieve BAT/BCT; and certified and filed demonstrable
14 false Annual Reports.
15
16

17 119. MATTCO is subject to civil penalties for all violations of the Clean
18 Water Act detailed below occurring since March 2, 2012.
19

20 120. On information and belief, Plaintiff alleges that the Facilities' have failed
21 and continue to fail to reduce or prevent pollutants associated with industrial activity
22 in storm water discharges through implementation of BMPs that achieve BAT/BCT as
23 required by the Act and Permit.
24

25 **A. Ongoing Violations of the Permit's M&RP Requirements.**

26 121. MATTCO has been and continues to conduct operations at the Facilities
27 with a legally inadequate M&RP.
28

1 122. Information available to CCAT indicates that the Facilities have failed
2 and continue to fail to collect and analyze qualifying storm events as required by the
3 Permit. Based on information and belief, CCAT alleges that MATTCO did not take a
4 single sample until 2017.
5

6 123. During the 2011-2012, 2012-2013, and 2013-14 Permit periods (July 1-
7 June 30), the Facilities were operating without having enrolled in the Permit, and
8 conducted no sampling or analysis of storm water data in violation of the Act.
9

10 124. Despite having certified on June 19, 2015 at page 8 of its Annual Report
11 for 2014-2015 that “[t]he facility immediately implemented a storm-water monitoring
12 plan [upon] receiv[ing] coverage under the Industrial General Permit for Storm Water
13 Discharges in May of 2015,” MATTCO failed to collect or analyze storm water
14 samples during two qualifying storm events on Friday May 8, 2015 and Thursday
15 May 14, 2015. Both of these storm events were sampled by neighboring facilities.
16
17
18

19 125. On June 17, 2016, MATTCO again wrongly certified on page 5 of its
20 Annual Report that “[d]uring the 2015-2016 storm season, there were no storm water
21 discharge events, during scheduled facility operating hours that met all of the
22 parameters in the general permit. Therefore, no samples were taken.”
23

24 126. Information available to CCAT demonstrates that MATTCO’s claim is
25 false. During the relevant timeframe there were as many as fifteen qualifying storm
26 events, nearly all of which were sampled by at least one industrial facility in the City
27 of Paramount.
28

1 127. MATTCO's failure to conduct sampling and monitoring as required by
2 the Permit demonstrates that it has failed to develop, implement, and/or revise a
3 legally adequate M&RP, and is therefore violating the Act.
4

5 128. MATTCO has failed and continues to fail to analyze samples for all
6 parameters required by the Permit.
7

8 129. MATTCO has failed and continues to fail to collect samples from all
9 discharge locations at the Facilities.
10

11 130. On information and belief, CCAT alleges that MATTCO has failed and
12 continues to fail to submit Annual Reports that comply with the Permit's reporting
13 requirements. MATTCO has falsely certified that: (1) a complete Annual
14 Comprehensive Site Compliance Evaluation was done pursuant to the Permit; (2) the
15 SWPPP's BMPs address existing potential pollutant sources and additional BMPs are
16 not needed; and (3) the SWPPP complies with the Storm Water Permit, or will
17 otherwise be revised to achieve compliance. Information available to CCAT indicates
18 that these certifications are erroneous. For example, storm water samples collected
19 from the Facilities contain concentrations of pollutants above Benchmarks and WQS,
20 thus demonstrating that the SWPPP's BMPs do not adequately address existing
21 potential pollutant sources.
22
23
24
25

26 **B. Failure to Prepare, Implement, Review and Update an Adequate**
27 **SWPPP; Failure to Develop and/or Implement Adequate BMPs.**

28 131. On information and belief, CCAT alleges that MATTCO is operating, as

1 of May 18, 2017, without a legally adequate SWPPP or M&RP. MATTCO has failed
2 and continues to fail to adequately develop, implement and/or revise a legally
3 adequate SWPPP in violation of the Permit and Act.
4

5 132. MATTCO's SWPPP fails to describe legally adequate BMPs for any
6 pollutants at the Jackson Street facility.
7

8 133. The Facilities' SWPPP fails to adequately identify and evaluate industrial
9 processes and sources of pollution as required by the Permit and Act. *See* 2015
10 Permit, Section X(A)(4)-5) & (C)(1)(a). For example, the SWPPP does not
11 acknowledge, identify or evaluate "outdoor processing areas" or "outdoor work
12 areas," both of which are described in expert sources on which the SWPPP is
13 purportedly based.
14
15

16 134. Information available to CCAT from a reconnaissance visit to the
17 Facilities on Dec. 8, 2016 documented extremely concerning industrial activities
18 taking place outdoors without being mentioned or evaluated in the SWPPP.
19

20 135. CCAT witnessed as many as 5 workers wearing industrial suits (full
21 body/head cover and breathing/filter system) grinding donut-shaped metal parts
22 (approx. 12"-15" diameter) with medium-sized power grinders (using approx. 5"-7"
23 abrasive discs) in an outdoor, unenclosed location identified on the site map as
24 "grinding area."
25
26

27 136. The SWPPP fails to describe and develop adequate BMPs. Despite the
28 obvious potential for grinding activities to result in pollutants likely to affect the

1 quality of industrial storm water, the word “grinding” appears only 3 times in the
2 SWPPP, and not once to describe an industrial activity. The only BMPs described for
3 any outdoor industrial activities are: 1) elevating metal materials; 2) a generic
4 reference to “good housekeeping;” 3) inspecting outdoor areas; 4) employee training;
5 and 5) locking gates to restrict access. CCAT alleges these BMPs are insufficient to
6 meet the Act’s mandate and the Permit’s requirements.
7
8

9 137. The SWPPP fails to describe adequate BMPs to address the “sheet flow”
10 onto Minnesota Avenue that is potentially contaminated by the Facilities’ hazardous
11 material and waste storage area.
12

13 138. MATTCO’s SWPPP fails to identify or describe any specific metals as
14 potential pollutants.
15

16 139. The SWPPP lacks essential details in identifying pollutants, evaluating
17 pathways of exposure and describing site-specific BMPs. At no point does the
18 SWPPP elaborate on specific processes used on the various metals present at the site
19 (grinding, cutting, sawing, deburring, melting, etc.), the potential pathways by which
20 the different metals might be exposed to storm water, or specific BMPs to address the
21 various pathways (broom sweeping vs. regenerative sweeper truck).
22
23

24 140. On information and belief, CCAT alleges that MATTCO has failed and
25 continues to fail to develop and implement adequate BMPs more generally. CCAT
26 witnessed and documented substantial quantities of raw materials, finished materials,
27 waste products and trash on the ground and fully exposed to the elements without the
28

1 benefit any observable BMPs.

2 141. CCAT believes and alleges that MATTCO is under an obligation, given
3 the overall layout and use of the Facilities' campus, to develop and implement
4 exposure minimization BMPs. However, the SWPPP cursorily concludes its
5 assessment of such BMPs by stating that they are "[n]ot applicable to this facility."
6

7 142. Information available to CCAT indicates that the Facilities have failed
8 and continue to fail to reduce or prevent pollutants associated with industrial activity
9 in storm water discharges through implementation of BMPs that achieve BAT/BCT as
10 required by the Act through the Permit.
11

12 143. Plaintiff is informed and believes, and thereupon alleges, that all of the
13 violations alleged in this Complaint are ongoing and continuing.
14

15 **CLAIMS FOR RELIEF**

16 **FIRST CAUSE OF ACTION**

17 **Defendant's Discharges of Contaminated Storm Water in** 18 **Violation of the Permit Effluent Limitations and the Act** 19 **(33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f))** 20

21 144. CCAT re-alleges and incorporates all of the preceding paragraphs as if
22 fully set forth herein.
23

24 145. CCAT is informed and believes, and thereon alleges, that Defendants
25 failed and continue to fail to reduce or prevent pollutants associated with industrial
26 activities through the implementation of BMPs at the Facilities that achieve
27 BAT/BCT.
28

1 146. CCAT is informed and believes, and thereon alleges, that discharges of
2 storm water containing levels of pollutants that do not achieve compliance with
3 BAT/BCT standards from the Facilities occur every time storm water is discharged.
4 Defendant's failure to develop and/or implement BMPs that achieve the pollutant
5 discharge reductions attainable via BAT or BCT at the Facilities is a violation of the
6 Storm Water Permit and the Act. *See* 1997 Permit, Effluent Limitation B(3); *see also*
7 2015 Permit, Section I(D) (Finding 32), Section V(A); *see also* 33 U.S.C. § 1311(b).
8

9 147. Defendants violate and will continue to violate the Permit's Effluent
10 Limitations each and every time storm water containing levels of pollutants that do
11 not achieve BAT/BCT standards discharges from the Facilities.
12

13 148. Each and every violation of the Permit's Effluent limitations is a separate
14 and distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a).
15

16 149. Defendants' violations of the Permit's Effluent Limitations and the Act are
17 ongoing and continuous.
18

19 150. By committing the acts and omissions alleged above, MATTCO is
20 subject to an assessment of civil penalties for each and every violation of the Act
21 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
22 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.
23

24 151. An action for injunctive relief is authorized by section 505(a) of the Act,
25 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
26 would irreparably harm Plaintiff and the citizens of the State of California, for which
27
28

1 harm CCAT has no plain, speedy, or adequate remedy at law.

2 152. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
3 because an actual controversy exists as to the rights and other legal relations of the
4 Parties.
5

6 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
7 hereafter.
8

9 **SECOND CAUSE OF ACTION**
10 **Defendant's Discharges of Contaminated Storm Water in**
11 **Violation of the Permit's Receiving Water Limitations and the Act**
12 **(33 U.S.C. §§ 1311(a), 1342, 1365(a), and 1365(f))**

13 153. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
14 fully set forth herein.

15 154. CCAT is informed and believes, and thereon alleges, that discharges of
16 storm water containing levels of pollutants that adversely impact human health and/or
17 the environment from the Facilities occur each time storm water discharges from the
18 Facilities.
19

20 155. CCAT is informed and believes, and thereon alleges, that storm water
21 containing levels of pollutants that cause or contribute to exceedances of water quality
22 standards has been discharged and continues to be discharged from the Facilities each
23 time stormwater is discharged from the Facilities.
24

25 156. Plaintiff is informed and believes, and thereupon alleges, that since at least
26 March 2, 2012, Defendants have discharged polluted storm water from the Facilities
27
28

1 causing or contributing to the violation of the applicable WQS and that adversely
2 impact human health or the environment in violation of the Receiving Water
3 Limitation of the General Permit.
4

5 157. Every day, since at least March 2, 2012, that Defendants have discharged
6 polluted storm water from the Facilities in violation of the Permit is a separate and
7 distinct violation of Section 301(a) of the Act, 33 U.S.C. § 1311(a). These violations
8 are ongoing and continuous.
9

10 158. Each and every violation of the Storm Water Permit's Receiving Water
11 Limitations is a separate and distinct violation of section 301(a) of the Act, 33 U.S.C.
12 § 1311(a).
13

14 159. By committing the acts and omissions alleged above, MATTCO is
15 subject to an assessment of civil penalties for each and every violation of the Act
16 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
17 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.
18

19 160. An action for injunctive relief is authorized by Act section 505(a),
20 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
21 would irreparably harm Plaintiff and the citizens of the State of California, for which
22 CCAT has no plain, speedy, or adequate remedy at law.
23

24 161. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
25 because an actual controversy exists as to the rights and other legal relations of the
26 Parties.
27
28

1 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
2 hereafter.

3
4 **THIRD CAUSE OF ACTION**
5 **Defendant's Failure to Prepare, Implement, Review, and Update**
6 **an Adequate Storm Water Pollution Prevention Plan**
7 **(Violations of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

8 162. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
9 fully set forth herein.

10 163. Defendants have not developed and implemented an adequate SWPPP
11 for the Facilities.

12 164. Each day since March 2, 2012, that Defendants do not develop, implement
13 and update an adequate SWPPP for the Facilities is a separate and distinct violation of
14 the General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a).

15 165. Defendants have been in violation of the SWPPP requirements every day
16 since March 2, 2012. Violations continue each day that an adequate SWPPP for the
17 Facilities is not developed and fully implemented.

18 166. By committing the acts and omissions alleged above, MATTCO is
19 subject to an assessment of civil penalties for each and every violation of the Act
20 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
21 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

22 167. An action for injunctive relief is authorized by Act section 505(a),
23 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
24
25
26
27
28

1 would irreparably harm Plaintiff and the citizens of the State of California, for which
2 harm CCAT has no plain, speedy, or adequate remedy at law.

3 168. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
4 because an actual controversy exists as to the rights and other legal relations of the
5 Parties.
6

7 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
8 hereafter.
9

10 **FOURTH CAUSE OF ACTION**
11 **Defendant's Failure to Develop and Implement an**
12 **Adequate Monitoring and Reporting Program**
13 **(Violation of Permit Conditions and the Act, 33 U.S.C. §§ 1311, 1342)**

14 169. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
15 fully set forth herein.
16

17 170. Defendants have not developed and implemented an adequate monitoring
18 and reporting program for the Facilities.

19 171. Each day since March 2, 2012, that Defendants have not developed and
20 implemented an adequate monitoring and reporting program for the Facilities in
21 violation of the General Permit is a separate and distinct violation of the General
22 Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). The absence of requisite
23 collection/monitoring and analytical results are ongoing and continuous.
24

25 172. By committing the acts and omissions alleged above, MATTCO is
26 subject to an assessment of civil penalties for each and every violation of the Act
27
28

1 occurring from March 2, 2012 to the present, pursuant to sections 309(d) and 505 of
2 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.

3 173. An action for injunctive relief is authorized by Act section 505(a),
4 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
5 would irreparably harm Plaintiff and the citizens of the State of California, for which
6 harm CCAT has no plain, speedy, or adequate remedy at law.
7

8 174. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
9 because an actual controversy exists as to the rights and other legal relations of the
10 Parties.
11

12 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
13 hereafter.
14

15
16 **FIFTH CAUSE OF ACTION**
17 **Defendant's Failure to Accurately Certify Compliance in Annual Reports in**
18 **Violation of the Permit and the Act**
19 **(33 U.S.C. §§ 1311, 1342, 1365(a) and 1365(f))**

20 175. Plaintiff re-alleges and incorporates all of the preceding paragraphs as if
21 fully set forth herein.

22 176. Defendants have not accurately certified compliance with the General
23 Permit in each of the annual reports submitted to the Regional Board since at least
24 March 2, 2012.
25

26 177. Each day since at least March 2, 2012, that Defendants do not accurately
27 certify compliance with the General Permit is a separate and distinct violation of the
28

1 General Permit and Section 301(a) of the Act, 33 U.S.C. § 1311(a). Defendants
2 continue to be in violation of the General Permit's certification requirement each day
3 they maintain an inaccurate certification of compliance with the General Permit.
4

5 178. By committing the acts and omissions alleged above, MATTCO is
6 subject to an assessment of civil penalties for each and every violation of the CWA
7 occurring from March 2, 2011 to the present, pursuant to sections 309(d) and 505 of
8 the Act, 33 U.S.C. §§ 1319(d), 1365, and 40 C.F.R. § 19.4.
9

10 179. An action for injunctive relief is authorized by Act section 505(a),
11 33 U.S.C. § 1365(a). Continuing commission of the acts and omissions alleged above
12 would irreparably harm Plaintiff and the citizens of the State of California, for which
13 harm CCAT has no plain, speedy, or adequate remedy at law.
14
15

16 180. An action for declaratory relief is authorized by 28 U.S.C. § 2201(a)
17 because an actual controversy exists as to the rights and other legal relations of the
18 Parties.
19

20 WHEREFORE, Plaintiff prays for judgment against Defendants as set forth
21 hereafter.
22

23 **RELIEF REQUESTED**

24 Wherefore, Plaintiff respectfully requests that this Court grant the following
25 relief:
26

27 a. Declare Defendant(s) to have violated and to be in violation of the Act
28 as alleged herein;

1 b. Enjoin Defendant(s) from discharging polluted storm water from the
2 Facilities unless authorized by the Permit;

3 c. Enjoin Defendant(s) from further violating the substantive and
4
5 procedural requirements of the Permit;

6 d. Order Defendant(s) to immediately implement storm water pollution
7
8 control technologies and measures that are equivalent to BAT or BCT and prevent
9 pollutants in the Facilities' storm water from contributing to violations of any water
10 quality standards;

11 e. Order Defendant(s) to comply with the Permit's monitoring and
12
13 reporting requirements, including ordering supplemental monitoring to compensate for
14 past monitoring violations;

15 f. Order Defendant(s) to prepare a SWPPP consistent with the Permit's
16
17 requirements and implement procedures to regularly review and update the SWPPP;

18 g. Order Defendant(s) to provide Plaintiff with reports documenting the
19
20 quality and quantity of their discharges to waters of the United States and their efforts
21 to comply with the Act and the Court's orders;

22 h. Order Defendant(s) to pay civil penalties of up to \$37,500 per day per
23
24 violation for each violation of the Act since March 21, 2012, up to and including
25 November 2, 2015, and up to \$51,570 for violations occurring after November 2, 2015
26 pursuant to Sections 309(d) and 505(a) of the Act, 33 U.S.C. §§ 1319(d), 1365(a) and
27
28 40 C.F.R. §§ 19.1 - 19.4;

1 i. Order Defendant(s) to take appropriate actions to restore the quality of
2 waters impaired or adversely affected by their activities;

3 j. Award Plaintiff's costs (including reasonable investigative, attorney,
4 witness, compliance oversight, and consultant fees) as authorized by the Act, 33 U.S.C.
5 § 1365(d); and,
6

7 k. Award any such other and further relief deemed appropriate by the
8 Court.
9
10

11 Dated: MAY 19, 2017

Respectfully submitted,

12 By:

13 
14 Jesse C. Swanhuysen
15 Attorney for Plaintiff
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EXHIBIT A

March 2, 2017

SENT VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jon Lindbeck, President
Mattco Forge, Inc.
16443 Minnesota Ave
Paramount, California 90723

Denis B. Brady, CEO
Mattco Forge, Inc.
7810 East Sabino Crest
Tucson, Arizona 85750

Jon C. Lindbeck, Registered Agent
Mattco Forge, Inc.
4667 Avenida De Las Flores
Yorba Linda, CA 92886

Jose Contreras, Operations Manager
Mattco Forge, Inc.
16443 Minnesota Ave
Paramount, California 90723

**Re: Notice of Violation and Intent to File Suit Under the Federal Water Pollution
Control Act**

To Whom It May Concern:

I am writing on behalf of California Communities Against Toxics ("CCAT") regarding violations of the Clean Water Act¹ ("CWA" or "Act") and California's General Industrial Storm Water Permit² occurring at those industrial facilities owned and operated by Mattco Forge, Inc. ("Mattco" or "Owner") at and/or near 16443 Minnesota Avenue and 7530 Jackson Street in Paramount, California ("Facilities"). CCAT is a non-profit public benefit corporation dedicated to working with communities to advocate for environmental justice and pollution prevention. CCAT has members living in and around Paramount, as well as throughout the Los Angeles River Watershed. CCAT and its members are deeply concerned with protecting public health and the environment in and around their communities.

This communication ("Notice Letter") is prepared pursuant to the Act, 33 U.S.C. §§ 1365(a) and (b), and is sent to you and Mattco as the responsible owners and/or operators of the Facilities in order to: 1) detail violations of the Act and General Industrial Permit occurring at the Facilities, and b) provide formal notice that CCAT intends to file a federal enforcement action against Mattco for violations of Sections 301 and 402 of the Act, 33 U.S.C. §§ 1311, 1342.

¹ Federal Water Pollution Control Act 33 U.S.C. § 1251 *et seq.*

² National Pollution Discharge Elimination System ("NPDES") General Permit No. CAS000001, Water Quality Order No. 92-12-DWQ, Order No. 97-03-DWQ, as amended by Order No. 2014-0057-DWQ. Between 1997 and June 30, 2015, the Storm Water Permit in effect was Order No. 97-03-DWQ ("1997 Permit"), which as of July 1, 2015, was superseded by Order No. 2014-0057-DWQ ("2015 Permit"). As explained herein, the 2015 Permit and the 1997 Permit contain the same fundamental requirements and implements the same statutory mandates. CCAT may herein refer to the two versions interchangeably as the "General Industrial Permit" or "Permit."

I. Background

A. The Clean Water Act

The objectives of the Act are to “restore and maintain the chemical, physical and biological integrity of the Nation’s waters.” 33 U.S.C. §§ 1251(a), 1311(b)(2)(A). To this end, the Act prohibits the discharge of pollutants from any point source into waters of the United States except in compliance with other requirements of the Act, including Section 402, which provides for NPDES permits. 33 U.S.C. §§ 1311(a), 1342(p), 40 C.F.R. § 122.26(c)(1). In California, the EPA has delegated its authority to issue NPDES permits to the State Water Resources Control Board (“State Board”). 33 U.S.C. §§ 1342(b), (d). The Los Angeles Regional Water Quality Control Board (“Regional Board”) is responsible for issuance and enforcement of the General Permit in Region 4, which covers Mattco’s Facilities.

Section 505 authorizes citizens to file suit in federal court against facilities alleged to be in violation of the Act and/or related permits. 33 U.S.C. § 1365(a). Section 505(b) of the Act requires citizens to give notice to alleged violators at least sixty (60) days before initiating civil action under Section 505(a). 33 U.S.C. § 1365(b). Notice must be given to the alleged violator(s), the Administrator of the United States Environmental Protection Agency (“EPA”), the Regional Administrator of EPA, the Executive Officer of the water pollution control agency in the State in which the alleged violations occur, and, if the violator is a corporation, the registered agent of the corporation. 40 C.F.R. § 135.2(a)(1). Unless Mattco takes appropriate action to remedy ongoing violations of the Act, CCAT will file suit in U.S. District Court following expiration of the 60-day notice period, seeking civil penalties, injunctive relief, fees and costs. Limited by the Act’s five-year statute of limitations, Mattco is subject to civil penalties for all violations of the Act occurring at the Facilities since March 2, 2012.³

C. The Facilities

The Facilities operating under Waste Discharger Identification No. 4 19I025496 are located at and/or near 16443 Minnesota Avenue and 7530 Jackson Street in Paramount, California. According to the Stormwater Pollution Prevention Plan (“SWPPP”) dated May 22, 2015 on file with the Regional Board, the facility on Minnesota Ave. comprises approximately four acres. The Notice of Intent to Comply With the Terms of the General Permit to Discharge Storm Water Associated with Industrial Activity (“NOI”) filed with the State and Regional Boards on June 25, 2015 certifies that the Facilities cover four acres. The NOI further certifies that the Facilities’ Standard Industrial Classification (“SIC”) is 3462 (Iron and Steel Forgings). According to information available to CCAT, activities at the Facilities’ include development, design, manufacture and testing of engineered forged metal products for the aerospace, defense, oil & gas, transportation and power generation sectors. According to information available to

³ Mattco and the Facilities are liable for both violations of the 1997 Permit and ongoing violations of the 2015 Permit. See *Illinois v. Outboard Marine, Inc.*, 680 F.2d 473, 480-81 (7th Cir. 1982) (granting relief for violations of an expired permit); *Sierra Club v. Aluminum Co. of Am.*, 585 F. Supp. 842, 853-54 (N.D.N.Y. 1984) (holding that the Clean Water Act’s legislative intent and public policy favor allowing penalties for violations of expired permits); *Pub. Interest Research Group of N.J. v. Carter Wallace, Inc.*, 684 F. Supp. 115, 121-22 (D.N.J. 1988) (holding that limitations of an expired permit, when transferred to a newly issued permit, are viewed as currently in effect for enforcement purposes).

CCAT, the Facilities products are forged from nickel, titanium, aluminum, stainless steel, alloy and carbon steel, magnesium, cobalt and as many as 11 “super” alloys.

According to SWPPP, the Facilities are “100% impervious, including paved and concrete areas and roofed buildings. The buildings onsite include an office building with warehouse space, test shop, main shop, tool building and training/IT building. There is a parking lot for employees and visitors outside the main office building. Loading/Unloading of finished product occurs at the warehouse building off of Jackson Street. Outdoor storage of bulk materials and storage tanks occur in the paved yard in from of the main shop or south of the tool building.” SWPPP Section 2.1.3 at 8.

The Facilities are located approximately 1.3 miles east of the Los Angeles River. There are at least two drainage areas at the Facilities. The first drainage flows to a storm drain within the property perimeter located outside of the South-West corner of the Office and Warehouse building. The second drainage drains the area outdoor material storage areas and the circulation area to two storm drains also within the property perimeter. According to the SWPPP, all storm drains drain to the municipal storm system.⁴

EPA’s Industrial Storm Water Fact Sheet for AA: Fabricated Metal Products Manufacturing Facilities⁵ indicates that polluted discharges from industrial activities like those conducted at the Facilities commonly contain substances affecting pH; metals, such as iron, aluminum, and nickel; toxic metals, such as lead, zinc, cadmium, chromium, and copper; organics; chemical oxygen demand (“COD”); biological oxygen demand (“BOD”); total suspended solids (“TSS”)⁶; fuel additives, gas/diesel fuel, oil and grease (“O&G”); coolants and solvents; acid/alkaline waste; and, trash and debris. Similarly, EPA’s Industrial Storm Water Fact Sheet for Sector AB: Transportation Equipment, Industrial, or Commercial Machinery Manufacturing Facilities⁷ indicates that polluted discharges from industrial activities like those conducted at the Facilities commonly contain TSS; O&G; organics; solvents; acid/alkaline wastes; heavy metals; toxic metals such as lead, arsenic, cadmium, and chromium; COD; gasoline and diesel. Many of these pollutants are on the list of chemicals published by the State of California as known to cause cancer, birth defects, and developmental or reproductive harm. Discharges of polluted storm water to the local surface waters pose carcinogenic and reproductive toxicity threats to the public, and adversely affect the aquatic environment.

⁴ According to information available to CCAT, all storm water from the facility drains to BI 0559 – Line C of storm drain system operated by County of Los Angeles.

⁵ Available at https://www3.epa.gov/npdes/pubs/sector_aa_fabmetal.pdf

⁶ High concentrations of TSS degrade optical water quality by reducing water clarity and decreasing light available to support photosynthesis. TSS has been shown to alter predator prey relationships (for example, turbid water may make it difficult for fish to hunt prey). Deposited solids alter fish habitat, aquatic plants, and benthic organisms. TSS can also be harmful to aquatic life because numerous pollutants, including metals and polycyclic aromatic hydrocarbons, are absorbed onto TSS. Thus, higher concentrations of TSS results in higher concentrations of toxins associated with those sediments. Inorganic sediments, including settleable matter and suspended solids, have been shown to negatively impact species richness, diversity, and total biomass of filter feeding aquatic organisms on bottom surfaces.

⁷ Available at https://www.epa.gov/sites/production/files/2015-10/documents/sector_ab_transport.pdf.

D. Receiving Waters

With every significant rainfall event, millions of gallons of polluted storm water originating at industrial facilities pour into storm drains and waterways across Los Angeles County. The consensus among agencies and specialists is that storm water pollution accounts for more than half of the total pollution entering surface waters each year. These discharges contribute not only to the impairment of the waters receiving polluted discharges, but all downstream waters including the Pacific Ocean. Contaminated discharges threaten the health of the aquatic and associated terrestrial ecosystems in the receiving waters, as well as the health and welfare of communities that live near and/or use these resources.

The Facilities' stormwater discharges drain from Reach 2 of the Los Angeles River ("River"), through Reach 1 of the River, the Los Angeles River Estuary and the San Pedro Bay to the Pacific Ocean via (collectively "Receiving Waters"). The Regional Board identifies beneficial uses of the Receiving Waters and establishes water quality standards in the *Water Quality Control Plan – Los Angeles Region: Basin Plan for the Coastal Watersheds of Los Angeles and Ventura Counties*⁸ (adopted June 13, 1994, as amended) ("Basin Plan"). The beneficial uses of the Receiving Waters include municipal and domestic water supply, groundwater recharge, water contact recreation,⁹ non-contact water recreation,¹⁰ warm freshwater habitat, wildlife habitat, wetland habitat, marine habitat, rare, threatened, or endangered species, preservation of biological habitats, migration of aquatic organisms, spawning, reproduction and/or early development, and shellfish harvesting.

The Basin Plan includes a narrative toxicity standard which states that "[a]ll waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in, human, plant, animal, or aquatic life." Basin Plan at 3-38. The Basin Plan includes a narrative oil and grease standard which states that "[w]aters shall not contain oils, greases, waxes, or other materials in concentrations that result in a visible film or coating on the surface of the water or on objects in the water, that cause nuisance, or that otherwise adversely affect beneficial uses." Basin Plan at 3-29. The Basin Plan provides that "[w]aters shall not contain suspended or settleable material in concentrations that cause nuisance or adversely affect beneficial uses." Basin Plan at 3-37. The Basin Plan provides that "[t]he pH of inland surface waters shall not be depressed below 6.5 or raised above 8.5 as a result of waste discharges." Basin Plan at 3-35. The Basin Plan provides that "[s]urface waters shall not contain concentrations of chemical constituents in amounts that adversely affect any designated beneficial use." Basin Plan at 3-24. The Basin Plan provides that "[w]aters shall not contain floating materials, including solids, liquids, foams, and scum, in concentrations that cause nuisance or adversely affect beneficial uses." Basin Plan at 3-26. The Basin Plan provides that "[w]aters shall be free of coloration that causes nuisance or adversely affects beneficial uses." Basin Plan at 3-25. The Basin Plan provides that "[w]aters shall be free of changes in turbidity

⁸ Available at http://www.waterboards.ca.gov/losangeles/water_issues/programs/basin_plan/.

⁹ Contact recreation use includes fishing and wading. Basin Plan at 2-2.

¹⁰ Non-contact water recreation use is defined as "[u]ses of water for recreational activities involving proximity to water, but not normally involving contact with water where water ingestion is reasonably possible. These uses include, but are not limited to, picnicking, sunbathing, hiking, beachcombing, camping, boating, tidepool and marine life study, hunting, sightseeing, or aesthetic enjoyment in conjunction with the above activities." Basin Plan at 2-2.

that cause nuisance or adversely affect beneficial uses.” Basin Plan at 3-38. The Basin Plan provides that “[w]aters shall not contain taste or odor-producing substances in concentrations that impart undesirable tastes or odors to fish flesh or other edible aquatic resources, cause nuisance, or adversely affect beneficial uses.” Basin Plan at 3-37.

The EPA has adopted freshwater numeric water quality standards for zinc of 0.120 mg/L (Criteria Maximum Concentration – “CMC”), for copper of 0.013 mg/L (CMC), and for lead of 0.0025 mg/L (Criteria Continuous Concentration – “CCC”). 65 Fed. Reg. 31712 (May 18, 2000) (California Toxics Rule – “CTR”).¹¹

According to the 2012 303(d) List of Impaired Water Bodies,¹² Reaches 1 and 2 of the River are impaired by pollutants such as pH, cyanide, diazinon, lead, nutrients, ammonia, cadmium, coliform bacteria, copper, trash, zinc, and oil. The Los Angeles River Estuary is impaired by, among other pollutants, chlordane, sediment toxicity, and trash.¹³ The Los Angeles/Long Beach Harbor is impaired by at least chrysene, copper, sediment toxicity, mercury, and zinc.¹⁴ The San Pedro Bay is impaired by sediment toxicity, and the Long Beach City Beach, one of the San Pedro Bay beaches, is impaired by indicator bacteria.¹⁵

The Receiving Waters are ecologically significant. Although pollution and habitat destruction have drastically altered the natural ecosystem, the Receiving Waters are still essential habitat for dozens of fish and bird species, as well as macro-invertebrate and invertebrate species. Storm water and non-storm water contaminated with sediment, heavy metals, and other pollutants harm the special aesthetic and recreational significance the Receiving Waters have for people in surrounding communities, including CCAT members. The public’s use of the Receiving Waters for water contact sports and fishing exposes many people to toxic metals, pathogens, bacteria and other contaminants in storm water and non-storm water discharges. Non-contact recreational and aesthetic opportunities, such as wildlife observation, are also impaired by polluted discharges to the Receiving Waters.

II. Storm Water Permitting and Enforcement

A. Storm Water Permitting

The Act prohibits any discharges of storm water associated with industrial activities (and authorized non-storm water discharges) that have not been subjected to Best Available Technology Economically Achievable (“BAT”) for toxic¹⁶ or non-conventional pollutants, and Best Conventional Pollution Control Technology (“BCT”) for conventional pollutants¹⁷ (33 U.S.C. §§ 1311(b)(2)(A), (B)). However, regulators recognize the challenge of defining and

¹¹ These values are expressed as a function of total hardness (mg/L) in the water body and correspond to a total hardness of 100 mg/L, which is the default listing in the California Toxics Rule.

¹² Available at http://www.waterboards.ca.gov/water_issues/programs/tmdl/integrated2012.shtml

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Toxic pollutants are listed at 40 C.F.R. § 401.15 and include copper, lead and zinc, among others.

¹⁷ Conventional pollutants include Total Suspended Solids, Oil and Gas, pH, biochemical oxygen demand and fecal coliform. 40 C.F.R. § 401.16. All other pollutants are either toxic or nonconventional.

enforcing the standard, as well as the strain that strict application would impose on industry. Thus, rather than requiring the specific application of BAT or BCT to each individual discharge of storm water, Mattco's compliance with the substantive and procedural terms and conditions of California's Permit serves as a proxy for compliance with the Federal Statute. *See e.g.* 1997 Permit, Finding 10.

Compliance with the General Industrial Permit generally constitutes compliance with the Act for purposes of storm water discharges. 33 U.S.C. §§ 1311(b)(2)(A), 1311(b)(2)(E). Conversely, failures to comply with the Permit's terms and conditions constitute violations of the Act. *See* 1997 Permit, Section C(1); *see also* 2015 Permit, Section XXI(A). The Permit essentially requires facility owners/operators to adhere to the following requirements: i) submit an NOI certifying the type(s) of activity undertaken at a facility, and committing the operator to comply with all terms and conditions of the Permit; ii) eliminate unauthorized non-storm water discharges;¹⁸ iii) develop and implement a SWPPP that assesses sources of pollutants, and describes Best Management Practices ("BMPs") that will reduce or prevent pollutants in storm water discharges; iv) monitor, sample and/or analyze storm water discharges and authorized non-storm water discharges; and v) file complete and accurate Annual Reports by July 15 of each year, in which the owner/operator describes the facilities, summarizes the past year's industrial activities and certify compliance with the terms and conditions of the Permit.

The Permit's principal mechanisms for ascertaining compliance with the Act's BAT/BCT mandate, therefore, are to require:

- a. basic planning—the preparation and implementation of a comprehensive SWPPP that describes suitable site-specific BMPs;
- b. monitoring and validation—the development and implementation of a Monitoring and Reporting Program ("M&RP"), which emphasizes the collection and analysis of stormwater discharges to inform owners/operators regarding commensurate changes to BMPs that are necessary to comply with the Permit and Act; and
- c. c) corrective action as necessary—authentic efforts to improve and modify practices at the facility where owners/operators become aware of deficiencies.

All facilities must analyze each sample for three sets of pollutants—basic parameters, industry-specific parameters, and site-specific parameters. Basic parameters are those standard pollutants for which every industrial facility must test, and include TSS, pH, Specific Conductance ("SC")¹⁹, and either TOC or O&G. 1997 Permit, Section B(5)(c)(i); 2015 Permit, Sections XI(B)(6)(a)-(b). Industry-specific parameters are those commonly associated with activities in the particular industry, and are set in relationship to a facility's SIC code. 1997 Permit, Section B(5)(c)(iii); 2015 Permit, Section XI(B)(6)(d). Lastly, site-specific parameters are those pollutants associated with processes and activities at a particular facility. 1997 Permit,

¹⁸ Discharge Prohibition A(1) of the 1997 Permit and Discharge Prohibition III(B) of the 2015 Permit prohibit the discharge of materials other than storm water (defined as non-storm water discharges) that discharge either directly or indirectly to waters of the United States. Discharge Prohibition A(2) of the 1997 Permit and Discharge Prohibition III(C) of the 2015 Permit prohibit storm water discharges and authorized non-storm water discharges that cause or threaten to cause pollution, contamination, or nuisance.

¹⁹ The 2015 Permit does not require facilities to analyze samples for Specific Conductance.

Section B(5)(c)(ii); 2015 Permit, Section XI(B)(6)(c).

Facility owners and operators must then compare analytical data to numeric values or limits published by the EPA (“Benchmarks”) that serve as objective measures for evaluating whether a facility’s BMPs achieve the statutory BAT/BCT standards, and are therefore operating in compliance with the Act. *See United States Environmental Protection Agency NPDES Multi-Sector General Permit for Storm Water Discharges Associated with Industrial Activity*, 80 Fed. Reg. 34,403, 34,405 (June 16, 2015); MSGP, 73 Fed. Reg. 56,572, 56,574 (Sept. 29, 2008); MSGP, 65 Fed. Reg. 64,746, 64,766-67 (Oct. 30, 2000) (as modified effective May 9, 2009). Under certain conditions, a facility will also be required to compare analytical data to numeric and narrative limits established elsewhere, including in the Basin Plan and CTR.

The 1997 Permit embodied an iterative and flexible approach whereby the analyses of storm water samples was supposed to inform a permittee as to the efficacy of its BMPs. The 1997 Permit optimistically envisioned a process whereby facility owners/operators would proactively revise BMPs so as to reduce pollutant concentrations to within numeric or narrative limits. In response to a widespread industry practice of ignoring and/or avoiding the voluntary iterative process, the 2015 Permit established numeric action levels (“NALs”) and a compulsory BMP-review process. *See 2015 Permit Factsheet* at 55-60. An exceedance of a NAL triggers a requirement under which dischargers must prepare various Exceedance Response Actions (“ERAs”), i.e. employ a stormwater professional to conduct an audit of the facility, design and implement improved BMPs, and revise the facility SWPPP. 2015 Permit, Section XII.

B. Citizen Enforcement

In designing the Act, Congress acknowledged “the Government simply is not equipped to take court action against the numerous violations [...] likely to occur [under the Act].” 116 Cong. Rec. 33,104 (1970) (statement of Sen. Hart).²⁰ In anticipating this challenge, Congress crafted Section 505 to encourage citizen plaintiffs to act as “private attorney’s general.” Citizen plaintiffs, therefore, fill a critical social role by enforcing the Act’s mandate and are “welcomed participants in the vindication of environmental interests.” *Friends of the Earth v. Carey*, 535 F.2d 165, 172 (2nd Cir. 1976).

Citizen plaintiffs also fill an essential economic/market role. Water pollution results in inefficient economic outcomes caused by market failures frequently associated with common pool resources like surface waters and oceans. Enforcement actions under Section 505 help correct these market failures by forcing firms to internalize the social welfare impacts (i.e. costs) of water pollution that would otherwise be borne by society. Society at large pays handsomely when business owners fail to operate efficiently. The most common costs are associated with human illness (health care costs, productivity loss, increased mortality/death, etc.), habitat loss and ecosystem service disruption, wildlife disturbances, and detrimental impacts to tourism.

²⁰ *See also* 116 Cong. Rec. 33,104 (1970) (statement of Sen. Muskie) “I think it is too much to presume that, however well staffed or well intentioned these enforcement agencies are, they will be able to monitor the potential violations of all the requirements contained in the implementation plans that will be filed under this act, all the other requirements of the act, and the responses of the enforcement officers to their duties.”

C. Standards Applicable Under the Act and Permit²¹

As described above, the Act prohibits Mattco from discharging pollutants to the Receiving Waters except as permitted by and in compliance with California's General Industrial Permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1). The 1997 Permit and the 2015 Permit both require that dischargers meet all applicable provisions of the Act's Sections 301 and 402.

1. *Effluent Limitation*

The Permit prohibits any discharges of storm water associated with industrial activities or authorized non-storm water discharges that have not been subjected to BAT or BCT. 1997 Permit, Section B(3), 2015 Permit, Section V(A). The Permit requires dischargers to reduce or prevent pollutants in their storm water discharges through implementation of BAT for toxic and nonconventional pollutants and BCT for conventional pollutants. BAT and BCT include both nonstructural and structural measures. *See* 1997 Permit, Section A(8); 2015 Permit, Section X(H).

Benchmarks and/or NALs established for conventional and industry specific pollutants discharged from the Facilities, and for which Mattco must analyze each sample, are summarized below at TABLE 1.

TABLE 1
BENCHMARK AND NAL VALUES APPLICABLE TO THE FACILITIES

PARAMETER/ POLLUTANT	EPA BENCHMARK	ANNUAL NAL	INSTANTANEOUS MAXIMUM NAL
pH	6.0-9.0 s.u.	n/a	6.0-9.0 s.u.
TSS	100 mg/L	100 mg/L	400 mg/L
O&G	15 mg/L	15 mg/L	25 mg/L
SC	200 uhmos/cm	200 uhmos/cm	n/a
TOC	110 mg/L	110 mg/L	n/a
COD	120 mg/L	120 mg/L	n/a
Al	0.75 mg/L	0.75 mg/L	n/a
N+N	0.68 mg/L	0.68 mg/L	n/a
Fe	1.0 mg/L	1.0 mg/L	n/a
Zn	0.117 mg/L	0.26 mg/L	n/a
Ni	1.02 mg/L	1.02 mg/L	n/a
Mg	0.064 mg/L	0.064 mg/L	n/a

2. *Receiving Water Limitations*

The Permit prohibits storm water discharges and authorized non-storm water discharges that cause or contribute to an exceedance of an applicable Water Quality Standard ("WQS"), as

²¹ The description of standards applicable under the Act and Permit are not intended as a comprehensive recitation of every potential requirement, nor a complete description of each standard addressed. Rather, this section of the Notice Letter is intended to summarize the most relevant standards to facilities like those operated by Mattco.

defined in, *inter alia*, the Basin Plan and CTR.²² 1997 Permit, Section C(2); 2015 Permit, Section VI(A). Discharges that contain pollutants in excess of an applicable WQS violate these Receiving Water Limitations.

The Permit also prohibits storm water discharge and authorized non-storm water discharges to surface waters that adversely impact human health or the environment. 1997 Permit, Section C(1); 2015 Permit, Section VI(B). Thus, any discharge that contains pollutant concentrations exceeding levels that adversely impact aquatic species, the environment and/or human health constitute violations of these Receiving Water Limitations.

3. *Discharge Prohibitions*

In addition to the limitations discussed above, the Permit contains certain outright prohibitions. The General Industrial Permit prohibits the discharge of materials other than storm water ("non-storm water discharges" or "NSWD") directly or indirectly to waters of the United States. 1997 Permit, Section A(1); 2015 Permit, Section III(B). The Permit also prohibits storm water discharges that cause or threaten to cause pollution or contamination. 1997 Permit, Section A(2); 2015 Permit, Section III(C).

4. *Monitoring and Reporting Requirements*

Under the Permit, Mattco must develop and implement a storm water M&RP prior to conducting, and in order to continue, industrial activities. The primary objective of the M&RP is to detect and measure concentrations of pollutants in a facility's storm water discharges to ensure compliance with the Permit's Effluent Limitations, Receiving Water Limitations and Discharge Prohibitions. *See* 1997 Permit, Section B(2); *see also* 2015 Permit, Section X(I). A legally adequate M&RP ensures that BMPs achieve BAT/BCT, and is evaluated at least annually. The foundational element of a legally adequate M&RP is the development and implementation of a comprehensive site-specific SWPPP prior to commencement of industrial activity that is: a) crafted to achieve compliance with the Permit; and b) revised in response to lessons learned from data analyses and the prior year's implementation.

The principal M&RP requirements imposed by the 1997 Permit and 2015 Permit are substantially identical. *Compare* 1997 Permit, Sections B(3)-(16) to 2015 Permit, Sections X(I) and XI(A)-(D). The 1997 Permit required facilities conduct quarterly visual observations of all drainage areas for the presence of authorized and unauthorized non-storm water discharges. 1997 Permit, Section B(3). The 2015 Permit increased the frequency of visual observations to monthly, and requires that observations be completed at the same time samples are collected. 2015 Permit, Section XI(A). The Permit requires that facilities complete visual observations of storm water discharges from one event per month during the wet season. 1997 Permit, Section B(4); 2015 Permit, Section XI(A)(2). Dischargers must document observations, and any responses taken to address problems observed, including revisions made to the SWPPP. 1997 Permit, Sections B(3)-(4); 2015 Permit, Sections XI(A)(2)-(3). The Permit requires facilities to collect samples of storm water discharges from each of the discharge locations from at least two

²² Industrial storm water discharges must strictly comply with water quality standards, including those criteria listed in the applicable basin plan. *See Defenders of Wildlife v. Browner*, 191 F.3d 1159, 1166-67 (9th Cir. 1999).

storm events under the 1997 Permit and at least 4 storm events under the 2015 Permit²³—taking care that water collected is representative of the discharge from each discharge point. 1997 Permit, Sections B(5), (7); 2015 Permit, Sections XI(B)(1)-(5). All sampling analysis data must be submitted via SMARTS within thirty days of obtaining results. 2015 Permit, Section XI(B)(11).

III. Violations of the Clean Water Act and the Storm Water Permit

During the period before (Jan. 1992-May 2015) and since (May 2015-present) enrolling in the Permit, Mattco has wholly failed to carry out even its basic obligations under Act. As discussed in further detail below, the Facilities are in ongoing violation of the Permit, and violations span both the 1997 Permit and 2015 Permit. Specifically, the Facilities have failed to conduct any monitoring/sampling of stormwater discharges; failed to develop a legally adequate M&RP; failed to develop, implement and/or update a legally adequate SWPPP to ensure the development and implementation of BMPs that achieve BAT/BCT; and certified and filed demonstrable false Annual Reports. Mattco is subject to civil penalties for all violations of the Clean Water Act detailed below occurring since March 2, 2012.

A. Mattco has Violated and Continue to Violate the Storm Water Permit's Most Basic M&RP Requirement to Collect and Analyze Stormwater Discharges

As described above, the Permit requires Mattco *to first* develop and implement an M&RP that monitors pollutants in the Facilities' discharges, *and then* make commensurate BMP additions and/or revisions to ensure compliance with the Permit and Act. Mattco has been and continues to conduct operations at the Facilities with a legally inadequate M&RP. Information available to CCAT indicates that the Facilities have failed and continue to fail to sample qualifying storm events as required by the Permit, and these failures constitute negligent or intentional violations of the Act.

During the 2011-2012, 2012-2013, and 2013-14 Permit periods (July 1-June 30), the Facilities were operating without having enrolled in the Permit, and conducted no sampling or analysis of storm water data in violation of the Act. Mattco is subject to civil penalties for its failure to sample each qualifying storm event, as detailed in Exhibit A, during this period.

Despite having certified on June 19, 2015 at page 8 of its Annual Report for 2014-2015 that "[t]he facility immediately implemented a storm-water monitoring plan [upon] receiv[ing] coverage under the Industrial General Permit for Storm Water Discharges in May of 2015," Mattco failed to collect or analyze storm water samples during two qualifying storm events on Friday May 8, 2015 and Thursday May 14, 2015. Both of these storm events were sampled by neighboring facilities.

On June 17, 2016, Mattco again wrongly certified on page 5 of its Annual Report that "[d]uring the 2015-2016 storm season, there were no storm water discharge events, during scheduled facility operating hours that met all of the parameters in the general permit. Therefore,

²³ The 2015 Permit requires facilities to collect samples from each discharge location from two storm events within the first half of each reporting year (July 1-Dec. 31) and two storm events from the second half of each reporting year (Jan. 1-Jun 30).

no samples were taken.” Information available to CCAT demonstrates that Mattco’s claim is patently false. During the relevant timeframe there were as many as fifteen qualifying storm events, nearly all of which were sampled by at least one industrial facility in the City of Paramount.

As noted above, the 2015 Permit requires that all facilities submit to SMARTS analytical data with 30 days. As of March 2, 2017 at 1:54PM, Mattco had not uploaded data for a single storm event during the 2016-2017 permit period. During the relevant time, CCAT believes that there were as many as 9 qualifying storm events, at least 5 of which were sampled by neighboring facilities.

Mattco has engaged in a consistent pattern and practice of negligently or intentionally failing to collect and analyze storm water samples. Indeed it appears probable that Mattco has not taken a single storm water sample during its forty-eight year history. This is a serious and substantive violation of the Permit and Act. As noted earlier, the Permit assumes a certain level of good faith and civic responsibility on the part of permittees to collect and analyze storm water samples, and then engaged in an honest evaluation of how to remedy any problems that become apparent from the data.

Mattco’s failure to conduct sampling and monitoring as required by the General Industrial Permit demonstrates that it has failed to develop, implement, and/or revise a legally adequate M&RP, and is therefore violating of the Act. Every day that the Facilities conduct operations in violation of the specific monitoring requirements of the Permit, or with an inadequately developed and/or implemented M&RP, is a separate and distinct violation of the Permit and the Act. Mattco has been in daily and continuous violation of the Permit’s M&RP requirements every day since at least March 2, 2012. These violations are ongoing, and CCAT will include additional violations when information becomes available.

B. Failure to Develop and/or Implement Adequate BMPs; Failure to Prepare, Implement, Review and Update an Adequate SWPPP

The State Board has designated the SWPPP as the cornerstone of compliance with the NPDES Permit. Indeed the SWPPP, along with BMPs developed and described therein, is the planning and guidance document that assures compliance with the Permit’s core Effluent Limitation (1997 Permit, Section B(3); 2015 Permit, Section V(A)), which requires dischargers to reduce or prevent pollutants associated with industrial activity in storm water discharges through the implementation of BAT/BCT.

Sections A(1) and E(2) of the 1997 Permit require dischargers to develop and implement a SWPPP that meet all of the requirements *prior to beginning industrial activities*.²⁴ The objective of the SWPPP is to identify and evaluate sources of pollutants associated with

²⁴ Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The 2015 Permit, at Section X.B, requires “[a]ll dischargers...to implement their SWPPP...upon commencement of industrial activity.”

industrial activities that may affect the quality of storm water discharges (and authorized non-stormwater discharges) from a facility, and then develop BMPs to reduce or prevent pollutant concentrations in storm water discharges. 1997 Permit, Section A(2), 2015 Permit, Section X(C). BMPs described in a SWPPP must, upon full implementation, be designed to achieve compliance with the Permit's discharge requirements. To ensure ongoing compliance with the Permit, the SWPPP must be evaluated and revised in response to observations or data collected through implementation of the M&RP. 1997 Permit, Sections A(9)-(10), 2015 Permit, Section X(B). Failure to develop or implement an adequate SWPPP, or update or revise an existing SWPPP as required, is a violation of the Permit. 2015 Permit Factsheet I(1).

Sections A(3)-A(10) of the 1997 Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a pollution prevention team; a detailed site map; a list of significant materials handled and stored at the site; a description of potential pollutant sources; an assessment of potential pollutant sources; and a description of the BMPs designed to reduce or prevent pollutants in storm water discharges, including structural BMPs where non-structural BMPs are not effective. Sections X(D) – X(I) of the 2015 Permit set forth essentially the same SWPPP requirements, except that all dischargers are now required to develop and implement a set of minimum BMPs, as well as any advanced BMPs as necessary to achieve BAT/BCT. As described above, a suit of effective BMPs serve as the basis for compliance with the Permit's technology-based effluent limitations. *See* 2015 Permit, Section X(H).

The 2015 Permit requires a more comprehensive assessment of potential pollutant sources than the 1997 Permit; more specific BMP descriptions; and an additional BMP summary table identifying each identified area of industrial activity, the associated industrial pollutant sources, the specific industrial pollutants, and the BMPs being implemented. 2015 Permit, Sections X(G)(2), (4), (5). The 2015 Permit further requires dischargers to implement and maintain, to the extent feasible, any one or more of the following advanced BMPs necessary to reduce or prevent discharges of pollutants in industrial storm water discharges: exposure minimization BMPs, storm water containment and discharge reduction BMPs, treatment control BMPs, and other advanced BMPs. 2015 Permit, Section X(H)(2). Failure to implement advanced BMPs as necessary to achieve compliance with either technology or water quality standards is a violation of the 2015 Permit. 2015 Permit, Section X(H)(2).

CCAT's principal concern with respect to the inadequacy of Mattco's SWPPP and BMP implementation is the outdoor grinding operations. Deficiencies in the Facilities' SWPPP and BMPs in this regard begin with a complete failure to identify and evaluate industrial processes and sources of pollution as required by the Permit and Act. *See* 2015 Permit, Section X(A)(4)-(5) & (C)(1)(a). The SWPPP does not acknowledge, identify or evaluate "outdoor processing areas" or "outdoor work areas," both of which are described in expert sources on which the SWPPP is purportedly based. Information available to CCAT from a reconnaissance visit to the Facilities on Dec. 8, 2016 documented extremely concerning industrial activities taking place outdoors without being mentioned or evaluated in the SWPPP. Specifically, CCAT witnessed as many as 5 workers wearing industrial suits (full body/head cover and breathing/filter system) grinding donut-shaped metal parts (approx. 12"-15" diameter) with medium-sized power grinders (using approx. 5"-7" abrasive discs) in the location identified on the site map as "grinding area." *See* IMAGE 1 and IMAGE 2 below.

CCAT was pleased to see Mattco's dedication to protecting its employees from the fine

metal particulate that was visibly broadcasting from each workbench. However, CCAT was dismayed and distressed to observe and document Mattco's utter disregard for public health and failure to even endeavor to contain, capture or otherwise manage the metal dust (visible in IMAGE 1). Grinding was taking place over at least a one-hour period in an outdoor area without the benefit of any observable BMPs. CCAT is in possession of multiple videos that document the dispersal of particulate matter into the air from the "grinding area," as well as substantial accumulations of dust, small metal pieces and discarded metal scraps strewn about the entire area (visible in both images), indicating that basic housekeeping BMPs are either poorly developed or simply not implemented.

Despite the obvious potential for these activities to result in pollutants likely to affect the quality of industrial storm water, the word "grinding" appears only 3 times in the SWPPP, and not once to describe an industrial activity. The only BMPs described for any outdoor industrial activities are: 1) elevating metal materials; 2) a generic reference to "good housekeeping;" 3) inspecting outdoor areas; 4) employee training; and 5) locking gates to restrict access.

IMAGE 1

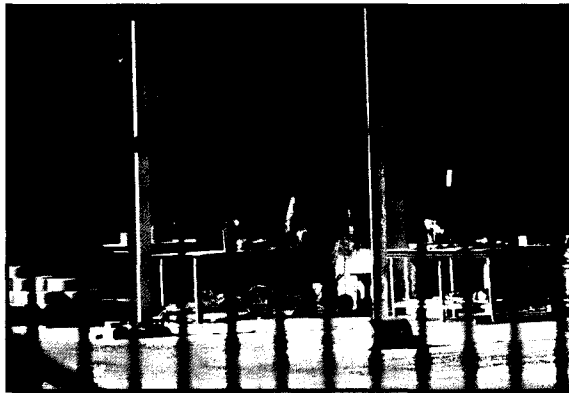


IMAGE 2



Photos, taken from Minnesota Avenue, of industrial activities taking place in the location identified as "grinding area" on Mattco's Site Map

CCAT's next concern with respect to SWPPP/BMP violations is Mattco's failure to identify or describe a single metal as a potential pollutant. Further, at no point does the SWPPP elaborate on specific processes used on the various metals present at the site (grinding, cutting, sawing, deburring, melting, etc.), the potential pathways by which the different metals might be exposed to storm water, or specific BMPs to address the various pathways (broom sweeping vs. regenerative sweeper truck). The SWPPP lacks essential details in identifying pollutants, evaluating pathways of exposure and describing site-specific BMPs. These deficiencies demonstrate that Mattco has failed, and continues to fail, to comply with the Permit's specific requirements and the Act's BAT/BCT mandate.

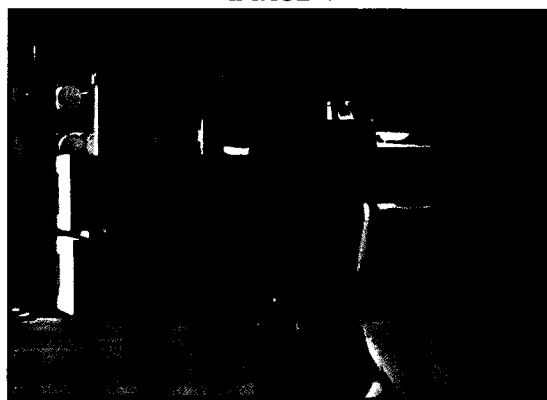
Lastly, CCAT believes that Mattco has failed and continues to fail to develop and implement adequate BMPs more generally. CCAT witnessed and documented substantial quantities of raw materials, finished materials, waste products and trash on the ground, exposed to the elements without the benefit any observable BMPs. See IMAGE 3 and IMAGE 4 below.

IMAGE 3



Raw materials and finished products without observable BMPs

IMAGE 4



Finished products and waste storage without observable BMPs

Lastly, CCAT believes that Mattco is under an obligation, given the overall layout and use of the Facilities' campus, to develop and implement exposure minimization BMPs. However, the SWPPP cursorily concludes its assessment of such BMPs by stating that they are "[n]ot applicable to this facility."

Mattco has failed and continues to fail to adequately develop, implement and/or revise a SWPPP in violation of the Permit. Everyday the Facilities operate without adequate BMPs is a separate and distinct violation of the Permit and Act. These violations are ongoing, and CCAT will include additional violations when information becomes available. Mattco has been in daily and continuous violation of the Permit's SWPPP requirements and Act's BAT/BCT mandate, and is subject to civil penalties for all such violations occurring since March 2, 2012.

E. Failure to File True and Correct Annual Reports

Section B(14) of the 1997 Permit requires a permittee to submit an Annual Report to the Regional Board by July 1 of each year, which includes a summary of visual observations and sampling results, an evaluation of the visual observation and sampling results, the laboratory reports of sample analysis, the annual comprehensive site compliance evaluation report, an explanation of why a permittee did not implement any activities required, and other information specified in Section B(13). The 2015 Permit includes substantially identical annual reporting requirement. *See* 2015 Permit, Section XVI.

Mattco has failed and continues to fail to submit Annual Reports that comply with these reporting requirements. For example, each Annual Report submitted to the Regional Board has certified that: (1) a complete Annual Comprehensive Site Compliance Evaluation was done pursuant to Section A(9) of the Storm Water Permit; (2) the SWPPP's BMPs address existing potential pollutant sources and additional BMPs are not needed; and (3) the SWPPP complies with the Storm Water Permit, or will otherwise be revised to achieve compliance. However, information available to CCAT, as described above, indicates that these certifications are erroneous.

Information available to CCAT indicates that Mattco has submitted incomplete and/or incorrect Annual Reports that fail to comply with the Storm Water Permit. As such, Mattco is in daily violation of the Permit. Every day Mattco conducts operations at the Facilities without reporting as required by the Permit is a separate and distinct violation of the Permit and Section 301(a) of the Act, 33 U.S.C. §1311(a). These violations are ongoing, and CCAT will include additional violations when information becomes available, including specifically violations of the 2015 Permit reporting requirements. *See* 2015 Permit, Sections XII, XVI.

IV. Persons Responsible for the Violations

CCAT puts Mattco on notice that it is the entity responsible for the violations described above. If additional corporate or natural persons are identified as also being responsible for the violations described herein, CCAT puts Mattco on notice that it intends to include those persons in this action.

V. Name and Address of Noticing Party

Jane Williams
California Communities Against Toxics (CCAT)
3813 50th Street West
Rosamond, CA 93560

VI. Counsel

Please direct all communications to legal counsel retained by CCAT for this matter:

Jesse Swanhuyser
Anacapa Law Group, Inc.
508 East Haley Street
Santa Barbara, CA 93103
(805) 689-1469
jswanhuyser@anacapalawgroup.com

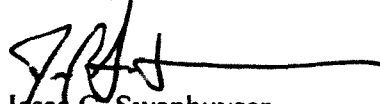
VII. Penalties

Pursuant to Section 309(d) of the Act (33 U.S.C. § 1319(d)) and the Adjustment of Civil Monetary Penalties for Inflation (40 C.F.R. § 19.4) each separate violation of the Act subjects Mattco to a penalty of up to \$37,500 per day per violation for all violations occurring since March 2, 2012, up to and including November 2, 2015, and up to \$51,570 for violations occurring after November 2, 2015. In addition to civil penalties, CCAT will seek injunctive relief to prevent further violations of the Act pursuant to Sections 505(a) and (d), and such other relief as permitted by law. *See* 33 U.S.C. §§ 1365(a), (d). Lastly, Section 505(d) of the Act permits prevailing parties to recover costs and fees, including attorneys' fees. *See* 33 U.S.C. § 1365(d).

CCAT believes this Notice of Violations and Intent to File Suit sufficiently states grounds for filing suit. CCAT intends to file a citizen suit under Section 505(a) of the Act against Mattco, the Facilities and its agents for the above-referenced violations upon the

expiration of the 60-day notice period. However, during the 60-day notice period, CCAT would be willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, CCAT suggests that you initiate those discussions within the next 20 days so that they may be completed before the end of the 60-day notice period as CCAT does not intend to delay the filing of a complaint in federal court.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jesse C. Swanhuysen', followed by a horizontal line.

Jesse C. Swanhuysen

Lawyer for California Communities Against Toxics

Attachment A – Rain Event Summary for the Facilities: 2012 through 2017

Cc: Jeff Sessions, U.S. Department of Justice
Scott Pruitt, U.S. Environmental Protection Agency
Alexis Strauss, U.S. Environmental Protection Agency (Region IX)
Thomas Howard, State Water Resources Control Board
Samuel Unger, Regional Water Quality Control Board (Region 4)

VIA U.S. CERTIFIED MAIL

Jeff Sessions, U.S. Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-001

Scott Pruitt, Administrator
U.S. Environmental Protection Agency
William Jefferson Clinton Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Alexis Strauss, Acting Regional Administrator
U.S. Environmental Protection Agency Region IX
75 Hawthorne Street
San Francisco, California 94105

Thomas Howard, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, California 95812-0100

Samuel Unger, Executive Officer
LA Regional Water Quality Control Board
320 West Fourth Street, Suite 200
Los Angeles, CA 90013

Exhibit A**STORM EVENT SUMMARY: March 2012-March 2017****Days with Rainfall above 0.1 inches**

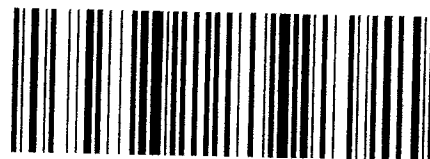
[Source: https://www.wunderground.com/history/airport/KLGB/2016/12/9/MonthlyHistory.html?req_city=Paramount&req_state=&req_statename=California&reqdb.zip=&reqdb.magic=&reqdb.wmo=]

Date (mm/dd/yy)	Rainfall (inches)
03/17/12	0.49
03/18/12	0.23
03/25/12	0.58
04/10/12	0.13
04/11/12	0.54
04/13/12	0.45
04/25/12	0.28
04/26/12	0.12
10/11/12	0.30
11/08/12	0.12
11/29/12	0.29
11/30/12	0.46
12/02/12	0.18
12/03/12	0.42
12/12/12	0.12
12/13/12	0.13
12/18/12	0.16
12/24/12	0.98
12/26/12	0.12
12/29/12	0.16
01/06/13	0.12
01/24/13	0.75
01/25/13	0.10
02/19/13	0.18
03/08/13	0.83
05/05/13	0.11
05/06/13	0.38
05/07/13	0.17
11/20/13	0.18
11/21/13	0.18
11/29/13	0.41
12/07/13	0.10
12/19/13	0.24
02/06/14	0.17
02/27/14	0.85
02/28/14	1.20

03/01/14	0.29
03/02/14	0.15
04/01/14	0.10
04/25/14	0.17
09/08/14	0.11
10/31/14	0.18
11/01/14	0.15
11/30/14	0.51
12/01/14	0.10
12/02/14	1.04
12/02/14	0.81
12/12/14	1.54
12/16/14	0.34
12/17/14	0.35
01/10/15	0.35
01/11/15	0.40
01/26/15	0.10
02/22/15	0.18
03/02/15	0.46
04/07/15	0.21
05/08/15	0.19
05/14/15	0.49
07/18/15	0.35
07/19/15	0.19
09/15/15	0.93
12/13/15	0.10
12/19/15	0.19
12/21/15	0.11
12/22/15	0.50
01/05/16	0.88
01/06/16	0.61
01/07/16	0.47
01/31/16	0.27
02/17/16	0.52
03/06/16	0.38
03/07/16	0.13
03/11/16	0.35
10/17/16	0.29
11/20/16	0.42
11/21/16	0.38
11/26/16	0.35
12/15/16	0.30
12/16/16	0.48
12/21/16	0.59
12/22/16	0.64

12/23/16	1.07
12/30/16	0.41
01/04/17	0.28
01/05/17	0.24
01/08/17	0.16
01/09/17	0.55
01/10/17	0.12
01/11/17	0.16
01/12/17	1.42
01/19/17	0.72
02/03/17	0.22
02/06/17	1.11
02/07/17	0.17
02/10/17	0.21
02/17/17	2.77

Anacapa Law Group, Inc.
508 East Haley Street
Santa Barbara, CA 93103



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DOJ MAILROOM

Citizen Suit Coordinator
Environmental & Natural Resources Division
Law and Policy Section
P.O. Box 7415
Ben Franklin Station
Washington, DC 20044-7415

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DEPT. OF JUSTICE ENRD
ENVIRONMENTAL DIVISION

